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Air Pollution Regulations in State Implementation Plans: Indiana

Abcor Inc, Wilmington, MA Walden Div

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Indiana

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This document has been produced in compliance with Section 110(h)(1) of the Clean Air Act amendments of 1977. The Federally enforceable regulations contained in the State Implementation Plans (SIPs) have been compiled for all 56 States and territories (with the exception of the Northern Mariana Islands). They consist of both the Federally approved State and/or local air quality regulations as indicated in the Federal Register and the Federally promulgated regulations for the State, as indicated in the Federal Register. Regulations which fall into one of the above categories as of January 1, 1978, have been incorporated. As mandated by Congress, this document will be updated annually. State and/or local air quality regulations which have not been Federally approved as of January 1, 1978, are not included here; omission of these regulations from this document in no way affects the ability of the respective Federal, State, or local agencies to enforce such regulations.

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Indiana

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Wilmington, Massachusetts

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EPA Project Officer: Bob Schell

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Office of Air, Noise, and Radiation
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Publication No. EPA-450/3-78-064

INTRODUCTION

This document has been produced in compliance with Section 110(h)(1) of the Clean Air Act Amendments of 1977. The Federally enforceable regulations contained in the State Implementation Plans (SIPs) have been compiled for all 56 States and territories (with the exception of the Northern Mariana Islands). They consist of both the Federally approved State and/or local air quality regulations as indicated in the Federal Register and the Federally promulgated regulations for the State, as indicated in the Federal Register. Regulations which fall into one of the above categories as of January 1, 1978, have been incorporated. As mandated by Congress, this document will be updated annually. State and/or local air quality regulations which have not been Federally approved as of January 1, 1978, are not included here; omission of these regulations from this document in no way affects the ability of the respective Federal, State, or local agencies to enforce such regulations.

There have been recent changes in the Federal enforceability of parking management regulations and indirect source regulations. The October, 1977, appropriation bill for EPA prohibited Federal enforcement of parking management regulations in the absence of specific Federal authorizing legislation. Federally promulgated parking management regulations have, therefore, been suspended indefinitely. Pursuant to the 1977 Clean Air Act Amendments, indirect source regulations may not be required for the approval of a given SIP. Consequently, any State adopted indirect source regulations may be suspended or revoked; State adopted indirect source regulations contained in an applicable SIP are Federally enforceable. More importantly, EPA may only promulgate indirect source review regulations which are specific to Federally funded, operated, or owned facilities or projects. Therefore, the Federally promulgated indirect source regulations appearing in this document are not enforceable by EPA except as they relate to Federal facilities.

Since State air quality regulations vary widely in their organization, content, and language, a standardized subject index is utilized in this document. Index listings consist of both contaminant and activity oriented categories to facilitate usage. For example, for regulations which apply to copper smelters, one might look under sulfur compounds (50.2), particulate matter process weight (50.1.1), or copper smelters (51.15). Federal regulations pertaining to a given State immediately follow the approved State and local regulations.

Additionally, a summary sheet of the information included in each comprehensive document is presented prior to the regulatory text to allow one to quickly assess the contents of the document. Specifically, the summary sheets contain the date of submittal to EPA of each revision to the SIP and the date of the Federal Register in which the revision was either approved or disapproved by EPA. Finally, a brief description or reference of the regulation which was submitted is also included.

This document is not intended to provide a tool for determining the enforceability of any given regulation. As stated above, it is intended to provide a comprehensive compilation of those regulations which are incorporated directly or by reference into Title 40, Part 52, of the Code of Federal Regulations. Consequently, the exclusion of a Federally approved regulation from this document does not diminish the enforceability of the regulation. Similarly, the inclusion of a given regulation (for example, regulations governing pollutants, such as odors, for which there is no national ambient air quality standards) in this document does not, in itself, render the regulation enforceable.

SUMMARY SHEET

OF

EPA-APPROVED REGULATION CHANGES

INDIANA

Submittal Date	Approval Date	Description
4/11/72	5/31/72	Public Law 100, Regulation APC-12-R, and 13 through 17. Note: Portions of APC 13, 15, 16 and 17 were disapproved.
6/30/72	7/27/72	APC-4-R Note: Disapproved for the maintenance of Secondary Stds. for particulate matter in the Metro-Indianapolis Region.
9/15/72	5/14/73	APC-13, 15 Note: This revokes the 5/31/72 disapproval of APC-13 and 15 on 5/31/72.
5/8/73	2/6/74	APC-19. Replaces APC-1
3/7/74	10/28/75	APC-18, 20 Note: State was requested to withdraw APC-18; APC-20, with the exception of section 2(d) was approved.
10/3/74	10/28/75	APC-16, 17 & 22 Note: APC-22 was approved only as it relates to CO and NO_2

Submittal Date	Approval Date	Description
11/8/74	10/28/75	APC-3, 15 Note: APC-3, Section 1, is disapproved to the extent that the 15-minute exemption provision fails to meet the requirements of 51.13(e)(1) & 51.19(c). No action taken on APC-15. APC-15 was disapproved on 5/6/76.
10/3/74	8/24/76	APC-22 Note: APC-22, Section 4 priority classifications for SO_2 control in Jefferson, LaPorte, Porter, Uigo and Warrick Counties is disapproved. Sources in these counties must comply with APC-13 approved on 5/14/73.
12/5/74	8/24/76	APC-13 Note: Partial Disapproval

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52.780	Review of New or Modified Indirect Sources
52.784	Transportation and Land Use Controls
52.786	Inspection and Maintenance Program
52.787	Gasoline Transfer Vapor Control
52.793	Prevention of Significant Deterioration

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(2.0) PREFACE

New installations or new potential sources of air pollution shall, after the effective date of the regulations, meet the specifications and limits contained in the regulations. All persons must comply within one year with Regulation APC 2. Existing installations which are sources of air pollution must within one year submit a program and timetables to comply with Regulations APC 3, APC 4, APC 5, APC 6 and APC 7. The Board may at its discretion grant a variance from the rules or regulations if it finds that:

(1) the emissions occurring or proposed to occur do not endanger or tend to endanger human health or safety; and

(2) compliance with the rules or regulations from which variance is sought would produce serious hardship without equal or greater benefits to the public.

(1.0) DEFINITIONS

The following terms as used in the Rules and Regulations shall, unless the context otherwise requires, have the following meanings:

AIR CONTAMINANT - Particulate matter, dust, fumes, gas, mist, smoke or vapor, or any combination thereof, but excluding uncombined water.

AIR CONTAMINANT SOURCE - Any and all sources of emission of air contaminants, whether privately - or publicly-owned or operated. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops and stores; and hydrocarbon combustion plants, power generating plants, and steam heating plants and stations, building and other structures of all types, including single and multiple family residences, apartments, houses, office buildings, hotels, restaurants, schools, hospitals, churches, and other institutional buildings, aircraft, automobiles, trucks, tractors, buses and other motor vehicles, garages and vending and service locations and stations, railroad locomotives, ships, boats and other waterborne craft, portable fuel-burning equipment, incinerators of all types, indoor and outdoor, refuse dumps and piles, and all stack and other chimney outlets from any of the foregoing.

AIR POLLUTION - Presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant or animal life or to property, or which unreasonably interfere with the enjoyment of life and property.

ASME - The American Society of Mechanical Engineers.

ASTM - The American Society of Testing and Materials.

AUXILIARY FUEL FIRING EQUIPMENT - Equipment to supply additional heat, by the combustion of an auxiliary fuel, for the purpose of attaining temperatures sufficiently high

(a) to dry and ignite the waste material,

(b) to maintain ignition thereof, and

(c) to promote complete combustion of combustible solids, vapors, and gases.

BACKYARD INCINERATION - The burning of material originating on the premises of single and multiple family residences.

BLAST FURNACE - The furnace and equipment used in the smelting process in which primarily oxygen is removed from the ore and molten metal produced with gas as a by-product. The furnace and equipment consist of, but are not limited to, the furnace proper, charging equipment, stoves, bleeders, gas dust catcher, gas-cleaning devices and other auxiliaries pertinent to the process.

BOARD - The Air Pollution Control Board of the State of Indiana.

BASIC OXYGEN FURNACE (BOF) - A furnace in which the melting and refining of iron are accomplished by the high velocity addition of large quantities of high purity oxygen to the atmosphere above the surface of the metal bath. The metal is held in a tiltable vessel with a basic refractory lining. Such a furnace includes furnace proper, oxygen lance, scrap and flux charging units, iron transfer units, gas collecting and cleaning equipment and stacks and any other auxiliaries pertinent to the process.

BRITISH THERMAL UNIT - The quantity of heat required to raise one pound of water from 59 degrees F. to 60 degrees F. (Abbreviated B.T.U., BTU or Btu.)

BY-PRODUCT COKE PLANT - A plant used in connection with the distillation process to produce coke in which the volatile matter is expelled, collected, and recovered. Such plant consists of, but is not limited to, coal and coke handling equipment, by-product chemical plant and other equipment associated with and attendant to the coking chambers or ovens making up a single battery operated and controlled as a single unit.

CARBONACEOUS FUEL - Any form of combustible matter - solid, liquid, vapor or gas, consisting primarily of carbon containing compounds in either fixed or volatile form which are burned primarily for their heat content.

CATALYTIC CRACKING UNIT - A unit composed of a reactor, regenerator and fractionating tower which is used to convert certain petroleum fractions into more valuable products by passing the material at elevated temperature through a bed of catalyst in the reactor. Coke deposits produced on the catalyst during cracking are removed by burning off in the regenerator.

COMBUSTION FOR INDIRECT HEATING - The combustion of fuel to produce usable heat that is to be transferred through a heat-conducting materials barrier or by a heat storage medium to a material to be heated so that the material being heated is not contacted by, and adds no substance to the products of combustion.

ELECTRIC FURNACE - A furnace in which the melting and refining of metals are accomplished by means of electric energy.

ENGINEER - Any person meeting the requirements as set forth in Chapter 148, Acts of 1935, Indiana General Assembly, as amended, and who is registered under the Act as a Professional Engineer. He shall be the person who designed or is responsible for the design of the equipment or air pollution control devices and preparation of the plan documents.

EQUIPMENT - Fuel-burning, combustion or process devices or apparatus including incinerators, fuel-burning equipment, refuse-burning equipment used for the burning of fuel or other combustible material from which the products of combustion are emitted. Also this shall include apparatus which generates heat and may emit products of combustion; and manufacturing chemical, metallurgical, pyro-processing, or mechanical processes which may emit smoke, particulate matter or other air contaminants. Processes are defined as equipment according to this regulation.

EXCESS AIR - That air supplied in addition to the theoretical quantity necessary for complete combustion of all fuel and/or combustible waste material present.

EXISTING EQUIPMENT - Equipment under construction, installed or operated on the effective date of the regulations. Any existing equipment which subsequent to the effective date of these regulations is altered, repaired or rebuilt at a cost of 30% or more of its replacement value shall be deemed new equipment. The cost of air pollution control equipment and of its installation is not to be included as a cost of altering, repairing or rebuilding existing equipment.

FOUNDRY CUPOLA - A stack-type furnace used for melting of metals consisting of, but not limited to, furnace proper tuyeres, fans or blowers, tapping spout, charging equipment, gas-cleaning devices and other auxiliaries.

FOUNDRY OPEN HEARTH - An open hearth furnace as defined herein but used in the foundry industry.

GARBAGE - Animal and vegetable matter such as that originating in houses, kitchens, restaurants and hotels, produce markets, food service and processing establishments, and greenhouses.

GAS-CLEANING DEVICE - Facility designed to remove air contaminants from equipment exhaust gases.

HEATING AND REHEATING FURNACE - A furnace in which metal is heated to permit shaping or forming, or to achieve specific physical properties.

HEATING VALUE - The heat released by combustion of one pound of waste or fuel measured in BTU's on an as received basis.

INCINERATOR - Combustion apparatus designed for high temperature operation in which solid, semi-solid, liquid, or gaseous combustible wastes are ignited and burned efficiently and from which the solid residues contain little or no combustible material.

OPEN BURNING - Any burning of combustible materials wherein the products of combustion are emitted directly into the open air without passing through a stack or chimney.

OPEN HEARTH FURNACE - A furnace in which the melting and refining of metal is accomplished by the application of heat to a saucer-type or shallow hearth in an enclosed chamber. Such furnace consists of, but is not limited to, the furnace proper, checkers, flues, and stack and may include a waste heat boiler, an oxygen lance, and other auxiliaries pertinent to the process.

PARTICULATE MATTER - Any material, except water, that exists in a finely divided form as a liquid or solid.

PERSON - Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, or any other legal entity, or their legal representative, agent, or assigns.

POLITICAL SUBDIVISION - Any municipality, city, incorporated town, village, county, township, district or authority, or any portion or combination of two or more thereof.

PROCESS - Any action, operation, or treatment and the equipment used in connection therewith, and all methods or forms of manufacturing or processing that may emit air contaminants.

PROCESS WEIGHT - The total weight of all materials introduced into any source operation. Solid fuels charged will be considered as part of the process but liquid and gaseous fuels and combustion air will not.

PROCESS WEIGHT RATE -

(a) For continuous or long-run, steady-state source operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof.

(b) For a cyclical or batch source operation, the total process weight for a period that covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such a period.

When the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply.

REFUSE - Includes garbage, rubbish and trade wastes.

RINGELMANN CHART - The chart published and described in the U.S. Bureau of Mines Information Circular 8333, and on which are illustrated graduated shades of gray to black for use in estimating the light-obscuring power of smoke.

RUBBISH - Solids not considered to be highly flammable or explosive such as, but not limited to, rags, old clothing, leather, rubber, carpets, wood, excelsior, plastics, paper, ashes, tree branches, yard trimmings, furniture, tin cans, glass, crockery, masonry, and other similar materials.

SALVAGE OPERATIONS - Any business, trade or industry engaged in whole or part in salvaging or reclaiming any product or material, such as, but not limited to, metals, chemicals, shipping containers, or drums.

SINTERING PLANT - The plant used in connection with the process of fusing fine particles of metallic ores causing agglomeration of such particles. Such plant consists of, but is not limited to, sintering machines, handling facilities, wind boxes, stack and other auxiliaries pertinent to the process.

SMOKE - Small gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon, ash and other combustible material, that form a visible plume in the air.

SMOKE MONITOR - A device using a light source and a light detector which can automatically measure and record the light-obscuring power of smoke at a specific location in the flue or stack of a source. Measuring and recording to be at intervals of not less than 15 seconds.

SOURCE OPERATION - The last operation preceding the emission of an air contaminant, which operation:

(a) results in the separation of the air contaminant from the process materials or in the conversion of the process materials into air contaminants, and

(b) is not an air pollution abatement operation.

STACK OR CHIMNEY - A flue, conduit or opening permitting particulate, or gaseous emission into the open air, or constructed or arranged for such purpose.

STANDARD CONDITIONS - A gas temperature of 70 degrees Fahrenheit and a gas pressure of 14.7 pounds per square inch absolute (psia).

STANDARD CUBIC FOOT (SCF) - The standard cubic foot is a measure of the volume of one cubic foot of gas at standard conditions.

STANDARD METROPOLITAN STATISTICAL AREA (SMSA) - The county which has at least one city with a population of at least 50,000 and the contiguous counties which contain the suburban areas for these cities.

TECHNICAL SECRETARY - The Technical Secretary of the Air Pollution Control Board of the State of Indiana.

THEORETICAL AIR - The exact amount of air required to supply the required oxygen for complete combustion of a given quantity of a specific fuel or waste.

TRADE WASTE - All solid or liquid material or rubbish resulting from construction, building operations, or the prosecution of any business, trade or industry such as, but not limited to, plastic products, chemicals, cinders and other forms of solid or liquid waste materials.

(51.13) REGULATION APC 2

Open Burning

No person shall conduct a salvage operation by open burning except on written approval of the Board. The Board must seek advice and guidance of local authorities before issuing such approval.

No person shall burn any refuse in any open fire except as follows:

a. Camp fires and fires used solely for recreation purposes where such fires are properly controlled by a responsible person.

b. Backyard incineration.

c. Burning of rubbish on a farm, derived from an agricultural operation, when the prevailing winds, at the time of burning, are away from populated areas and no nuisance is created.

d. Open burning, in remote areas, of highly explosive or other dangerous materials for which there is no other known method of disposal or for special purposes when approved by the Board.

The exceptions apply in all areas where they are not prohibited by local ordinances or by other officials having jurisdiction such as local fire officials.

(7.0) REGULATION APC 3
(50.1.2)

Visible Emissions and Malfunctions

(2.0) Sec. 1. Limitation. No person shall operate any equipment so as to produce, cause, suffer, or allow smoke or other visible emissions in excess of 40 percent opacity (Ringelmann No. 2) except as allowed in Sec. 2 and Sec. 4. Opacity values shall not be considered valid, unless observed and determined by a qualified person. Visible emissions shall exclude uncombined water.

(2.0) Sec. 3. Violation of Other Regulations.

(a) Single Stacks. A violation of Sec. 1 of this Regulation shall constitute prima-facie evidence of a violation of any applicable particulate emission control regulation of of the Board, but may be refuted by a stack emission test conducted in accordance with the Board's Source Sampling Policy, or other evidence acceptable to the Board. No violation shall have occurred if it can be shown the emmissions are exempt under Section 2 of this Regulation or due to a malfunction providing the requirements of Section 4 are adhered to.

(b) Multiple Stacks. For facilities with multiple stacks, each stack must comply separately with the opacity limitations of Sec. 1, except as allowed in Sec. 2, even though the multiple stacks, as a group, are in compliance with the limitations of the Board's applicable particulate emission control regulations.

(7.0) Sec. 4 Malfunctions.

(a) Malfunction. For the purpose of this regulation shall mean any sudden, unforeseen, or unavoidable failure of air pollution control equipment, or combustion or process equipment to operate in a normal manner and in compliance with all applicable regulations of the Board.

(b) Reporting. When a malfunction of any combustion or process operation or air pollution control equipment lasts more than one hour, the Technical Secretary shall be notified by telephone, or telegraph, as soon as practicable, but in no event later than four daytime business hours after the beginning of said occurrence. Information of the scope and expected duration of the malfunction shall be provided. A record shall be kept of all malfunctions, including start ups, or other events which result in violations of Sec. 1 and Sec. 2, and such record shall be made available to the Board upon request.

(c) Maintenance. Source operators are responsible for operating and maintaining all equipment and processes in compliance with all applicable regulations of the Board. The Board recognizes that malfunctions may occur for many and varied reasons. Curtailment of operations shall be required, except as covered in Sec. 4(d), if the source is not in compliance at least 90 percent of the operating time over the most recent 12-month period. Where the record shows repeated malfunctions exceeding 5 percent of the normal operational time attributed to improper maintenance of faulty equipment, the Board may require that the maintenance program be improved or that the defective or faulty equipment be replaced. To eliminate long term malfunction periods resulting from delays in obtaining replacement parts, an adequate stock of replacement parts shall be maintained.

(d) Malfunction Emission Reduction Program. Malfunctions of air pollution control equipment, and combustion and processes equipment may result in increased emissions such that the air quality standards may be violated or that health hazards may occur. It is recognized that a variety of steps, including complete shut down of the equipment involved, can be taken to reduce the amount of emissions to a reasonable value. Any source that has an emission rate in excess of 2,000 pounds per hour of any pollutant following a malfunction, or because of the health hazard created by a lesser emission rate than that specified, shall submit a malfunction emission reduction. Such a malfunction emission reduction program shall be submitted to the Board within 60 days after promulgation of this regulation for its approval. Documentation shall include, but not be limited to, the normal operating emission rate, the malfunction emission rate, and the program proposed to reduce emissions to a reasonable emission rate. The program shall be based on the best practical estimates of type and number of malfunctions experienced during the past 12 months of normal operation, and the scope and duration of such malfunctions.

(10.0) Sec. 5. Federal New Source Performance Standards. In addition to the requirements set forth herein, all new sources for which federal standards have been promulgated shall comply with the applicable portions of the Federal New Source Performance Standards 40 CFR Part 60.

(51.5) REGULATION APC 4

Combustion for Indirect Heating

Emission of particulate matter from the combustion of fuel for indirect heating shall be limited by the ASME Standard No. APS-1, dated June 15, 1966, "Recommended Guide for the Control of Dust Emission-Combustion for Indirect Heat Exchangers." For purposes of this Regulation, the maximum allowable emission shall be calculated using equation (15) in this Standard with a maximum downwind ground level dust concentration of 50 micrograms per cubic meter for a 30- to 60-minute time period. Figure 2 of the Standard may be used to estimate allowable emissions. However, irrespective of stack height, the maximum allowable emission for any stack shall be 0.6 pounds for new equipment and 0.8 pounds for existing equipment of particulates per million BTU input.

(Note: APC-4 is disapproved for the Metropolitan Indianapolis Intrastate Region.)

(51.5) REGULATION APC 4-R

(Note: This regulation is disapproved for the maintenance of secondary standards for particulate matter in the Metropolitan Indianapolis Region.)

Sec. 1. That in all areas of the State of Indiana except the Indiana portion (Lake and Porter Counties) of the Metropolitan Chicago Interstate Air Quality Control Region and in the Metropolitan Indianapolis Intrastate Air Quality Control Region, the emission of particulate matter from the combustion of fuel for indirect heating shall be limited by the ASME Standard No. APS-1, second edition, November, 1968, "Recommended Guide for the Control of Dust Emission-Combustion for Indirect Heat Exchangers."

(a) The maximum allowable emission shall be calculated using equation (15) in the ASME Standard with a maximum downwind ground level concentration of 50 micrograms per cubic meter for a 30-minute to 60-minute time period. Figure 2 as modified may be used to estimate allowable emissions and is included herewith.

Equation (15) is expressed as follows:

$$C_{max} = \frac{76.5\ Pt_f Q_m^{0.75} n^{0.25}}{ah_s}$$

C_{max} = maximum ground level concentration with respect to distance from the point source at the "critical" wind speed for level terrain. This shall not exceed 50 micrograms per cubic meter.

Pt_f = pounds of particulate matter emitted per million Btu heat input.

Q_m = total plant operating capacity rating in million Btu heat input per hour.

n = number of stacks in fuel burning operation.

a = plume rise factor. The value 0.67 shall be used for fuel burning equipment ratings of less than 1,000 million Btu heat input. No value greater than 0.8 for larger equipment ratings shall be used.

h_s = stack height in feet. If a number of stacks of different heights exist, the average stack height to represent "n" stacks shall be calculated by weighing each stack height with its particulate matter emission rate.

(b) Particulate matter (Pt_f) from all existing fuel combustion operations for indirect heating shall in no case be greater than 0.8 pounds per million Btu heat input.

(c) Particulate matter (Pt_f) for all new combustion operations for indirect heat installations 250 million Btu heat input per hour or less shall in no case be greater than 0.6 pounds per million Btu heat input.

Sec. 2. In the Indiana portion (Lake and Porter Counties) of the Metropolitan Chicago Interstate Air Quality Control Region and in the Metropolitan Indianapolis Intrastate Air Quality Control Region, the emission of particulate matter from the combustion of fuel for indirect heating shall be limited to that expressed by:

$$Pt_f = 0.87\ Q_m^{-0.16} \quad \text{where}$$

Pt_f and Q_m are defined in Section 1. For values of Q_m less than 10, Pt_f shall not exceed 0.2. Figure 1 may be used to estimate allowable emissions and is included herewith.

Sec. 3. This section has application in all areas of the State. Emissions of particulate matter from the combustion of fuel in new stationary installations for indirect heating in excess of 250 million Btu per hour heat input shall be limited to a maximum of 0.10 pounds per million Btu heat input as required and specified in the Federal Environmental Protection Agency's "Standards for Performance of New Stationary Sources," Federal Register, December 23, 1971, Volume 36, Number 247, Part II. This Federal Standard is adopted by reference as a part of this Regulation APC 4-R.

Sec. 4. Regulation APC 4, promulgated December 6, 1968, is hereby repealed.

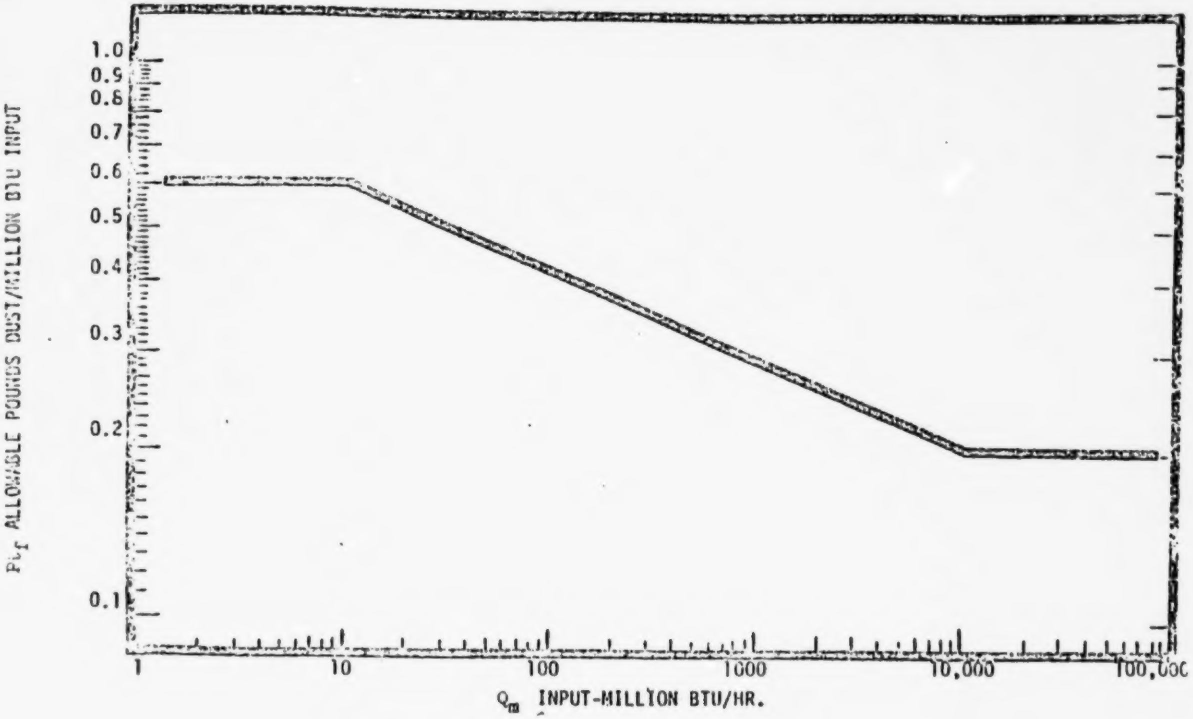
(50.1.1) REGULATION APC 5

Process Operations

No person shall operate any process so as to produce, cause, suffer or allow particulate matter to be emitted in excess of the amount shown in the following table. Exceptions are combustion for indirect heating, incinerators, open burning, existing cement kilns, existing catalytic cracking units, and existing foundries.

Allowable Rate of Emission Based on Process Weight Rate[1]

Process Weight Rate		Rate of Emission	Process Weight Rate		Rate of Emission
Lbs/Hr	Tons/Hr	Lbs/Hr	Lbs/Hr	Tons/Hr	Lbs/Hr
100	0.05	0.551	16,000	8.00	16.5
200	0.10	0.877	18,000	9.00	17.9
400	0.20	1.40	20,000	10.00	19.2
600	0.30	1.83	30,000	15.00	25.2
800	0.40	2.22	40,000	20.00	30.5
1,000	0.50	2.58	50,000	25.00	35.4
1,500	0.75	3.38	60,000	30.00	40.0
2,000	1.00	4.10	70,000	35.00	41.3
2,500	1.25	4.76	80,000	40.00	42.5
3,000	1.50	5.38	90,000	45.00	43.6
3,500	1.75	5.96	100,000	50.00	44.6
4,000	2.00	6.52	120,000	60.00	46.3
5,000	2.50	7.58	140,000	70.00	47.8
6,000	3.00	8.56	160,000	80.00	49.0
7,000	3.50	9.49	200,000	100.00	51.2
8,000	4.00	10.40	1,000,000	500.00	69.0
9,000	4.50	11.20	2,000,000	1,000.00	77.6
10,000	5.00	12.00	6,000,000	3,000.00	92.7
12,000	6.00	13.60			



PARTICULATE EMISSION LIMITS

FIGURE 1

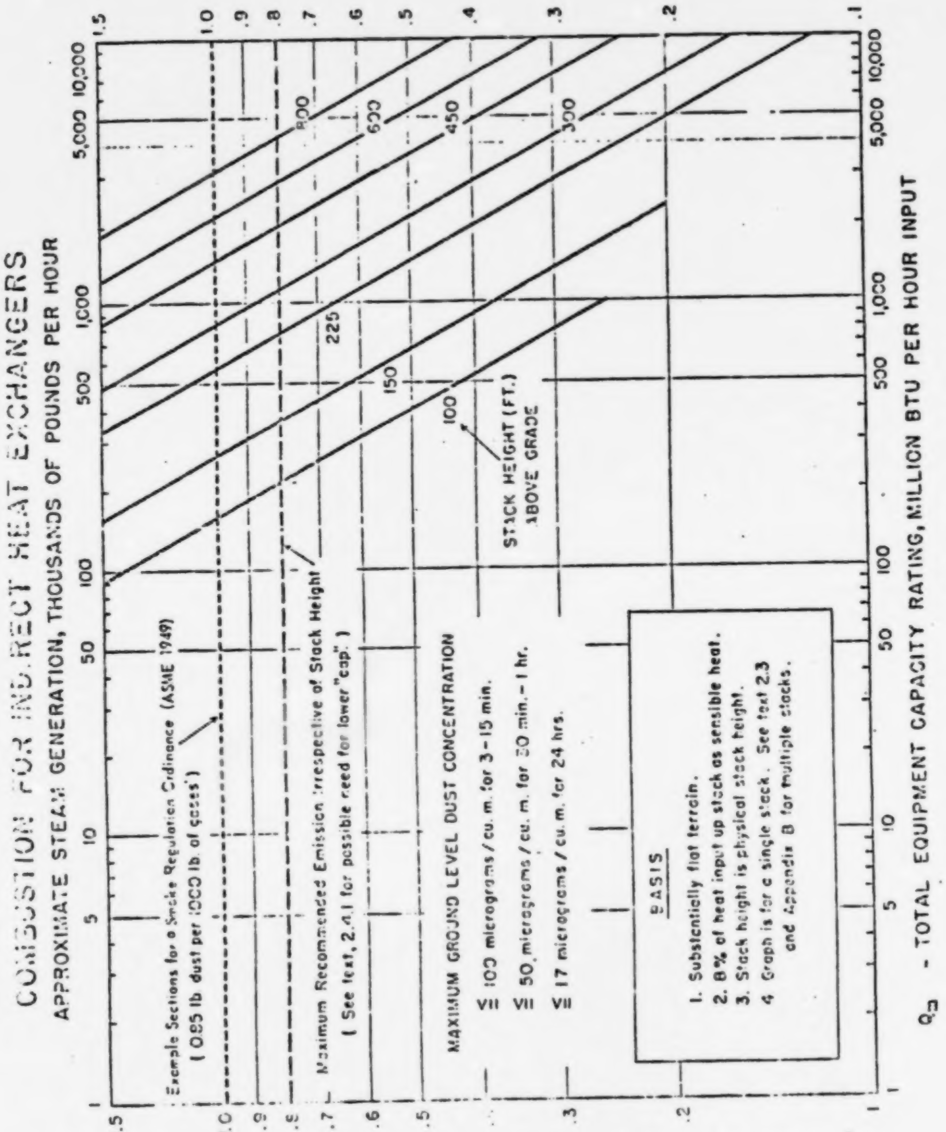

COMBUSTION FOR INDIRECT HEAT EXCHANGERS
APPROXIMATE STEAM GENERATION, THOUSANDS OF POUNDS PER HOUR
5
10
50
100
500
1,000
5,000
10,000
1.5
1.0
.9
.8
.7
.6
.5
.4
.3
.2
.1
800
600
450
300
225
150
100
STACK HEIGHT (FT.) ABOVE GRADE
Example Sections for a Smoke Regulation Ordinance (ASME 1949)
(0.85 lb dust per 1000 lb. of gases)
Maximum Recommended Emission Irrespective of Stack Height
(See text, 2.4.1 for possible need for lower "cap.")
MAXIMUM GROUND LEVEL DUST CONCENTRATION
VII 100 micrograms / cu. m. for 3 – 15 min.
VII 50 micrograms / cu. m. for 30 min. – 1 hr.
VII 17 micrograms / cu. m. for 24 hrs.
BASIS
1. Substantially flat terrain.
2. 8% of heat input up stack as sensible heat.
3. Stack height is physical stack height.
4. Graph is for a single stack. See text 2.3 and Appendix B for multiple stacks.
P_F - DUST EMISSION, POUNDS PER MILLION BTU INPUT
$Q_{\Box}$ - TOTAL EQUIPMENT CAPACITY RATING, MILLION BTU PER HOUR INPUT

FIGURE 2

[1] Interpolation of the data in this table for process weight rates up to 60,000 lbs/hr shall be accomplished by use of the equation $E = 4.10 P^{0.67}$, and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lbs/hr shall be accomplished by use of the equation $E = 55.0 P^{0.11} - 40$, where E = rate of emission in lbs/hr and P = process weight in tons/hr.

When the process weight exceeds 200 tons/hour, the maximum allowable emission may exceed that shown in the table, provided the concentration of particulate matter in the discharge gases to the atmosphere is less than 0.10 pounds per 1,000 pounds of gases at standard conditions.

Existing cement manufacturing operations equipped with electrostatic precipitators, bag filters, or equivalent gas-cleaning devices shall be allowed to discharge concentrations of particulate matter in accordance with $E = 8.6 P^{0.67}$ below 30 tons per hour of process weight and $E = 15.0 P^{0.5}$ over 30 tons per hour of process weight.

Existing petroleum catalytic cracking units equipped with cyclone separators, electrostatic precipitators, or other gas-cleaning systems shall recover 99.97% or more of the circulating catalyst or total gas-borne particulate.

(51.4) REGULATION APC 6

Existing Foundries

No person shall operate any existing foundry so as to produce, cause, suffer, or allow particulate matter to be emitted in excess of the amount shown in the following table. All new foundries shall not exceed the requirements of Regulation APC 5.

Allowable Emissions from Foundry Cupolas
(Existing Emission Sources)

Process Weight Rate Lbs/Hr	Allowable Emission of Particulate Matter Lbs/Hr
1,000	3.05
2,000	4.70
3,000	6.35
4,000	8.00
5,000	9.65
6,000	11.30

Process Weight Rate Lbs/Hr	Allowable Emission of Particulate Matter Lbs/Hr
7,000	12.90
8,000	14.00
9,000	15.50
10,000	16.65
12,000	18.70
16,000	21.60
18,000	22.80
20,000	24.00
30,000	30.00
40,000	36.00
50,000	42.00
60,000	48.00
70,000	49.00
80,000	50.50
90,000	51.60
100,000	52.60

(51.9) REGULATION APC 7

Incinerators

No person shall cause or permit the emission of particulate matter from the stack or chimney of any incinerator in excess of the following:

a. Incinerators with a maximum refuse-burning capacity of 1,000 or more pounds per hour, 0.4 pounds of particulate matter per 1.000 pounds of dry exhaust gas at standard conditions corrected to 50% excess air.

b. All other incinerators, 0.7 pounds of particulate matter per 1,000 pounds of dry gas at standard conditions corrected to 50% of excess air.

c. No incinerator shall emit or produce smoke in excess of the requirements in Regulation APC 3.

All new incinerators shall be multiple chamber or equivalent incinerators.

(8.0) REGULATION APC 12-R

Air Pollution Episode Alert Levels and Actions for the State of Indiana

Air pollution episode levels are based on levels of air contaminant concentrations in the atmosphere. The levels are established on the basis of the following minimum conditions and, as these figures are reached and verified, the appropriate episode level shall be activated by the Technical Secretary of the Air Pollution Control Board:

1. Air Pollution Forecast - Meteorological advisory bulletin that weather conditions conducive to the accumulation of atmospheric pollutants will persist for at least 36 hours.

2. Air Pollution Alert - That concentration of contaminants at which first stage control actions must begin. When meteorological conditions are such that this condition can be expected to continue for 12 or more hours, an alert will be declared if any one of the following levels is reached:

   SO_2 - 0.3 ppm, 24-hour average
   Particulate - 3.0 COHs, 24-hour average, or SO_2 and particulate combined - product of SO_2 ppm, 24-hour average and COHs equal to 0.2, or the highest product in any 24-hour period of SO_2 in ppm and particulate in ug/m^3 equals 25.
   CO - 15 ppm, 8-hour average
   Ox - 0.1 ppm, 1-hour average
   NO_2 - 0.6 ppm, 1-hour average, 0.15 ppm, 24-hour average

3. Air Pollution Warning - That concentration of contaminants which indicates air quality is continuing to degrade and second stage control actions must begin. When meteorological conditions are such that this condition can be expected to continue for 12 hours or more, a warning will be declared if any one of the following levels is reached:

SO_2 - 0.6 ppm, 24-hour average
Particulate - 6.0 COHs, 24-hour average
    Combined SO_2 and COHs, 24-hour average, SO_2 and COHs equal to 1.0, or the highest product in any 24-hour period of SO_2 ppm and particulate in ug/m^3 equal 125.
CO - 30 ppm, 8-hour average
Ox - 0.4 ppm, 1-hour average
NO_2 - 1.2 ppm, 1-hour average, 0.3 ppm, 24-hour average

4. Air Pollution Emergency - The emergency level is reached when the warning level for a pollutant has been exceeded and (1) the concentrations of the pollutant are continuing to increase, or (2) the Technical Secretary determines that, because of meteorological or other factors, the concentrations will continue to increase.

5. Termination - Once declared, any status reached by application of these criteria will remain in effect until the criteria for that level are no longer met. At such time the next lower status will be assumed.

(50.2) REGULATION APC 13

A REGULATION setting standards for sulfur dioxide emissions from the operation of all stationary sources, pursuant to the authority found in IC 1971, 13-1-1 and IC 1971, 13-7 and amending in its entirety Regulation APC 13, promulgated on September 14, 1972.

Sec. 1. Scope

Sulfur dioxide emissions from all stationary sources in the State of Indiana exceeding 10 pounds per hour shall comply with the rules set forth below. This regulation, however, shall not apply to resident dwellings or apartment buildings containing four or fewer units.

(a) New Large Sources: The maximum allowable sulfur dioxide emissions for new equipment of more than 250 million BTU per hour heat input shall be that value expressed in the Federal New Source Performance Standards 40 CFR Part 60. These sources shall, also, comply with Section 3 of this regulation.

(b) New Small Sources and All Existing Sources: The maximum allowable sulfur dioxide emissions from new equipment with a BTU input of 250 million BTU per hour heat input or less, shall be limited to the smaller value, as determined by Section 2 or 3 of this regulation. In priority A and B air quality basins only, sulfur dioxide emissions from existing equipment, regardless of capacity, shall be limited to the smaller value, as determined by Section 2 or 3 of this regulation; however, compliance with Section 2 or 3 for said existing sources in priority B air quality basins shall not be required when:

(1) an exemption is requested for a specific boiler, and

(2) the boiler is used no more than 500 equivalent full load hours per year, and

(3) there is no practicable control method available, and

(4) there will be no violation of any ambient air quality standards, and

(5) said exemption is set forth in a valid operation permit under the provisions of Regulation APC 19.

(c) Basic Stack Construction Provisions: All new exhaust gas stacks or chimneys emitting sulfur dioxide shall be no less than 50 feet in height. Further, all such new stacks shall be at least 2½ times the height of the tallest existing building or obstruction, located within 500 feet of the stack, that has a major effect on air movements. However, this height requirement may be reduced and incorporated into the terms of a construction or operation permit as required in Regulation APC 19 when:

(1) application is duly made by the source, and

(2) there is a submission of adequate proof that: (1) there is no major effect on air movement; or (ii) there is no violation of the ground level concentrations (Sec. 3); or (iii) there are other reasons acceptable to the Board.

No source shall emit sulfur dioxide which may create or contribute to ambient levels of sulfur dioxide at the ground level in excess of the air quality standards as set forth in Regulation APC 14 at or beyond its property line.

Sec. 2. Maximum Total Sulfur Dioxide Emissions

(a) Emissions from fuel combustion operations, including direct-fired process operations, shall be limited to that expressed by the formulas:

$E_m = 17.0\ Q_m^{-0.33}$ or $E_p = 17.0\ Q_m^{0.67}$ where $E_p = E_m \times Q_m$

(See Section 3 for definition of terms.)

The value of E_m shall not exceed 6.0 lbs. of sulfur dioxide nor shall it be required that E_m be reduced below 1.2 lbs. of sulfur dioxide per million BTU of heat input. When the heat input value is for material other than Indiana coal, Q_m shall be modified by the ratio of the dry stoichiometric effluent gas volume in cu. ft. per million BTU heat input of the material to be burned and the corresponding dry stoichiometric effluent gas volume for that of average Indiana coal (9850 cu. ft./million BTU of heat input at standard conditions). For the purpose of this section, direct-fired process operations shall be defined as that operation which uses oxygen in the air to combine with sulfur to form a marketable product.

(b) Emissions from existing sulfur recovery plants and emissions from all operations not subject to Section 2(a) shall be limited to that expressed by the formula:

$E_p = 19.5P^{0.67}$

The attached two figures depict these formulas and may be used to estimate allowable emissions.

Sec. 3. Allowable Ground Level Concentration

(a) Maximum hourly ground level concentrations (C_{max}) of sulfur dioxide contributed by any source shall not exceed 200 micrograms per cubic meter in a priority A basin, or 500 micrograms per cubic meter in a priority B basin.

(b) Maximum hourly ground level concentrations (C_{max}) of sulfur dioxide contributed by a new source shall not exceed 900 micrograms per cubic meter in a priority C basin.

(c) Ground level hourly concentrations for (a) and (b) above shall be determined by:

(1) The formulas:

$$C_{max} = \frac{90 S_f \, Q_m^{\,0.75} \, n^{\,0.25}}{a \, h_s}$$

for fuel combustion operations including direct fired process operations.

$$C_{max} = \frac{40 S_p \, P^{0.75} \, n^{\,0.25}}{a \, h_s}$$

for process operations subject to Section 2(b) of this regulation

(2) Other formulas or methods considered acceptable to the Board.

(d) Factors in the formulas, for Sections 2 and 3, are defined as follows:

C_{max} = maximum hourly ground level concentration with respect to distance and at the "critical wind speed for level terrain" resulting from the point source. This value shall not exceed those numbers specified in (a) and (b) above. However, lower values may be specified by the Board where terrain and other conditions dictate.

S_f = pounds of sulfur dioxide emitted per million BTU of heat input value of the fuel.

S_p = pounds of sulfur dioxide emitted per ton of process weight input.

E_m = maximum allowable sulfur dioxide emissions in pounds per million BTU fuel heat input.

E_p = maximum allowable sulfur dioxide emissions in pounds per hour.

Q_m = total combustion equipment capacity rating, fuel heat input in millions of BTU per hour.

P = total process equipment capacity weight input, tons per hour.

n = number of stacks or chimneys in fuel burning or process operations.

a = plume rise factor of 0.7.

h_s = stack height in feet. If a number of stacks with varying heights for different equipment capacity ratings exist, an average stack height to represent "n" stacks shall be calculated by taking the sum of the height of each stack multiplied by its hourly sulfur dioxide emission rate and dividing the sum by the total plant hourly sulfur dioxide emission rate. If the emission rate per million BTU of heat input for all stacks is the same, other means acceptable to the Board for ascertaining "h_s" may be used.

Sec. 4. Applicability

The following shall apply to all existing sources:

(a) All sources of sulfur dioxide emissions in priority A air quality basins shall comply with Sections 1, 2, and 3 of this regulation. In the event a source is not in compliance with this regulation, the schedule specified by Section 5(a) shall be followed.

(b) All fuel combustion sources, including direct-fired process operations, of sulfur dioxide emissions, in priority B air quality basins, shall comply with Sections 1, 2, and 3 of this regulation by May 31, 1975. In the event a source is not in compliance with this regulation, the schedule specified by Section 5(a) shall be followed. A source may elect to delay compliance until May 31, 1978, provided it installs interim controls to maintain air quality standards for sulfur dioxide, as set forth in APC 14, by July 1, 1975, as follows: (i) install and operate such numbers of properly located continuous air quality and meteorological monitors as the Board may require; (ii) provide the Board with reports on all collected ambient air quality and meteorological data on a monthly basis; and (iii) provide protection during adverse meteorological conditions through the use of low sulfur fuel (that fuel required to comply with Sections 1, 2, and 3 of this regulation) for two weeks or more, reducing fuel usage, or other means acceptable to the Board; however, those sources less than 500 million BTU need not comply with (i) and (ii) above. All sources using interim controls must comply with Sections 1, 2, and 3 no later than May 31, 1978, in accordance with the schedules specified in Section 5 (b) of this regulation.

(c) All fuel combustion sources, including direct-fired process operations, of sulfur dioxide emissions in a priority C air quality basin, must maintain a supply of low sulfur fuel (that which is required to comply with Section 2 of this regulation) sufficient to operate the plant for two weeks or more as required by the Board during adverse meteorological conditions. This low sulfur fuel supply shall be available by July 1, 1975. In addition, a fuel combustion source of 500 million BTU or greater in a priority C air basin shall (1) install and operate such number of properly located continuous air quality and meteorological monitors as the Board may require; and (2) provide the Board with reports on all collected ambient air quality and meteorological data on a monthly basis.

Sec. 5. Compliance Schedules

(a) All sources of sulfur dioxide emissions located in a priority A air quality basin and not in compliance with Sections 1, 2, and 3 of this regulation and all sources in priority B or C air quality basins that elect to achieve compliance by May 31, 1975, shall adhere to the following schedule:

(1) Submit a letter of intent no later than three months after this regulation is promulgated, which includes a schedule of dates for such items as submittal of plans, start of construction, completion of construction, for achieving compliance with Sections 1, 2, and 3, whichever is applicable. If compliance is to be accomplished by facility shut down, it shall be so specified.

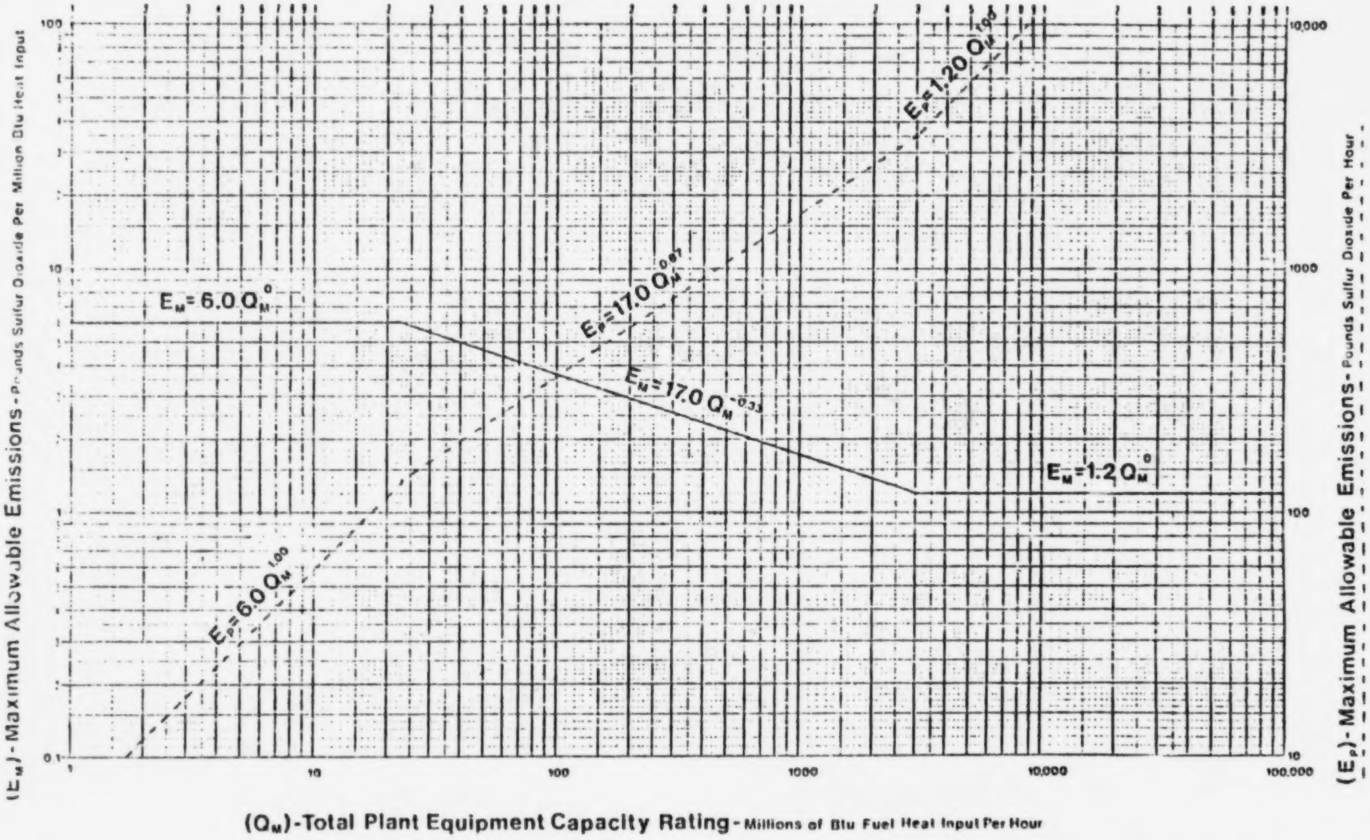
(2) Achieve compliance by May 31, 1975.

(3) Submit performance results by July 31, 1975.

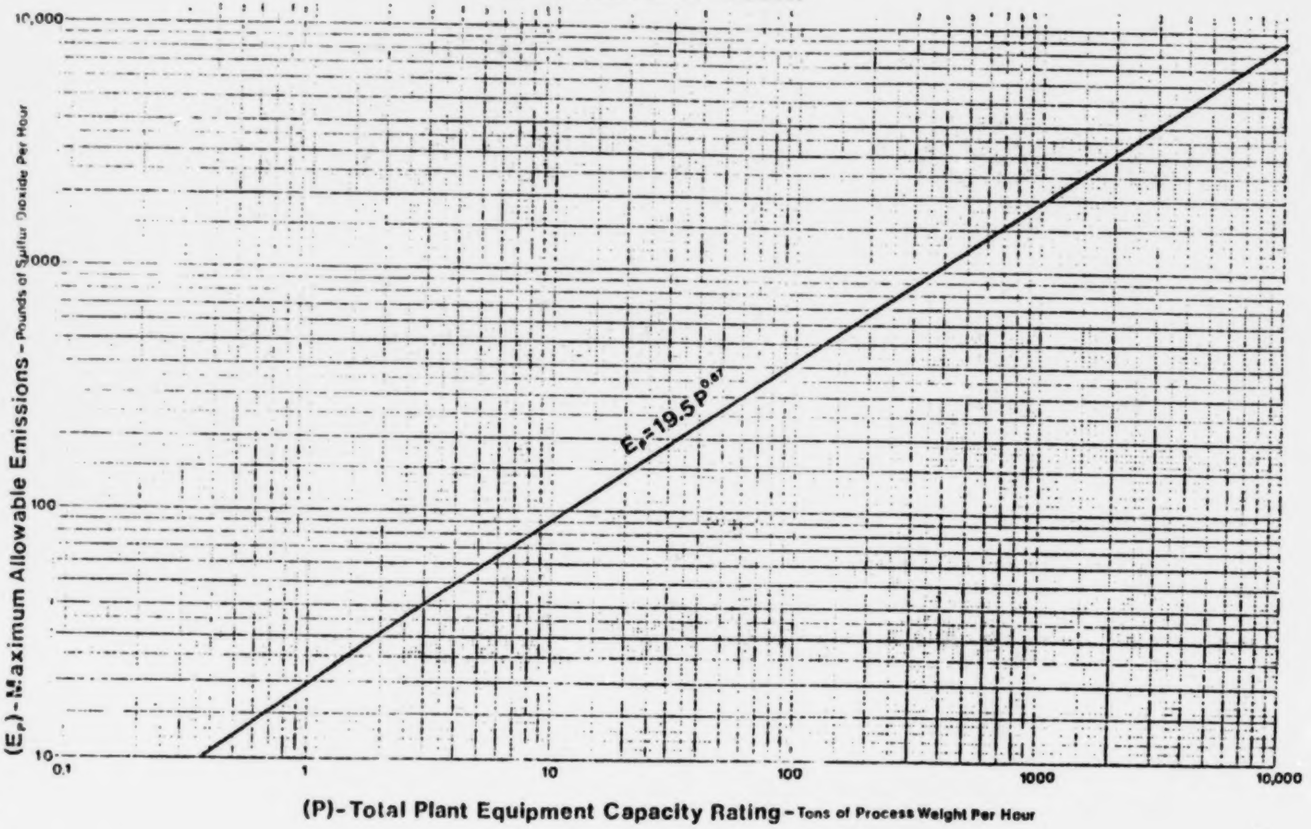
(b) All sources of sulfur dioxide emissions located in a priority B air quality basin and not in compliance with Sections 1, 2, and 3 of this regulation and electing to comply with the interim provisions of Section 4 shall adhere to the following schedule to achieve compliance:

Allowable Sulfur Dioxide Emissions for Fuel Burning Operations

(Includes Direct Fired Process Operations)



Allowable Sulfur Dioxide Emissions for Process Operations
(Non-Combustion Processes)



(1) Submit a letter of intent no later than three months after this regulation is promulgated, which includes a schedule of dates for such items as submittal of plans, start of construction, and completion of construction, for achieving compliance with Sections 1, 2, and 3 of this regulation. If compliance is to be accomplished by facility shut down, it shall be so specified. This schedule, when approved by the Board, shall constitute a legally binding commitment on the company submitting it.

(2) Achieve compliance by May 31, 1978.

(3) Submit performance results by July 31, 1978.

(50.2) REGULATION APC 13

Maximum Allowable Sulfur Dioxide Emissions

Sulfur dioxide emissions from all stationary sources exceeding 10 pounds per hour without controls shall be controlled to meet rules set forth below to attain the desired air quality standards and to maintain air quality consistent with the law where it is better than the standards. The sulfur dioxide emissions for new equipment of more than 250 million Btu per hour heat input shall comply with the Federal Emission Standards. The sulfur dioxide emission from new equipment with a Btu input of 250 million Btu per hour or less and from existing equipment shall be limited to the smaller value as determined by Sections 2 and 3 below, except as provided in Section 4.

Sec. 1. All new exhaust gas stacks or chimneys emitting sulfur dioxide shall be the taller of 50 feet in height or 2½ times the height of the tallest existing building within 500 feet of the stack, provided such height shall not be in violation of other governmental regulations. The Board shall apply this rule in the case of existing stacks when there is a problem of fumigation which adversely affects health or property due to downwash from the stack.

Sec.2. Hourly ground level concentrations of sulfur dioxide emitted from such stacks or chimneys shall not exceed 200 micrograms per cubic meter by the formula:

$$C_{max} = \frac{40\ S_p\ P^{0.75}\ n^{0.25}}{a\ h_s} \quad \text{for process operations and}$$

$$C_{max} = \frac{90\ S_f\ Q_m^{0.75}\ n^{0.25}}{a\ h_s}$$ for fuel combustion operations.

Factors in these formulas are defined as follows:

(a) C_{max} = maximum ground level concentration with respect to distance and at the "critical" wind speed for level terrain, in micrograms per cubic meter, resulting from the point source. This value shall not exceed 200. Lower values may be selected where terrain and other conditions dictate.

(b) S_f = pounds of sulfur dioxide emitted per million Btu of heat input value of the fuel.

(c) S_p = pounds of sulfur dioxide emitted per ton of process weight input.

(d) Q_m = total equipment capacity rating, fuel heat input in millions of Btu per hour.

(e) p = total equipment capacity process weight input, tons per hour.

(f) n = number of stacks or chimneys in fuel burning or process operations.

(g) a = plume rise factor. The value 0.67 shall be used for all process equipment ratings and fuel-burning equipment capacity ratings of less than 1,000 million Btu heat input. No value greater than 0.8 for larger fuel-burning equipment capacities shall be used.

(h) h_s = stack height in feet. If a number of stacks with varying heights for different equipment capacity ratings exist, an average stack height to represent "n" stacks shall be calculated by dividing the sum of the height of each stack multiplied by its equipment capacity rating by the total plant capacity rating.

Sec. 3. Maximum total sulfur dioxide emissions from (1) fuel-burning operations shall be limited to that expressed by the formula $E_m = 17.0\ Q_m^{-0.33}$, where E_m equals maximum allowable sulfur dioxide in the stack gases in pounds per million Btu of heat input value of the fuel. Stack emissions shall not exceed 6.0 pounds of sulfur dioxide per million Btu input. Low-sulfur fuel may be used in lieu of control equipment, or the simultaneous use of different fuels for averaging emissions may be used to comply with this equation; and (2) process operations shall be limited to that expressed by the formula: $E_p = 19.5\ P^{0.67}$, where E_p = maximum allowable emissions in pounds per hour, and P = total equipment capacity, process weight, tons per hour.

Sec. 4. Existing sources of sulfur dioxide emissions in air quality control regions designated as Priority I and II and existing sources with a heat input of more than 250 million Btu/hr in Priority IA Regions shall comply with Sections 2 and 3 of this regulation. An "Air Quality Control Region" is defined in the November 25, 1971, Federal Register, 36 CFR 22421 through 22448, (Part 81), and Priority I, IA, and II Regions are classified in the May 31, 1972, Federal Register, 37 CFR 10863 through 10865 (Subpart P). The control that will be required for fuel-burning equipment shall not exceed that needed to reduce emissions to 1.2 pounds of sulfur dioxide per million Btu of heat input per hour. When the control of sulfur dioxide emissions at the time of design exceeds the state of the art for compliance, then the best available treatment at the time shall be applied to secure maximum reduction of the emissions.

Sec. 5. Where air quality values in an area still exceed those expressed in Regulation APC 14, the Board shall require more stringent controls in these areas than those covered by this regulation.

Sec. 6. Fuel-burning equipment and incinerators used singly or jointly by occupants of residential dwellings containing four or fewer apartments shall be exempt from these rules and limits.

Sec. 7. All new emission sources or new air pollution control equipment shall comply with this Regulation. Existing emission sources shall adhere to the following schedule:

(a) In the following Indiana Counties: Boone, Hamilton, Hancock, Hendricks, Johnson, Lake, Marion, Morgan, Porter and Shelby, sources that elect to reduce emissions of sulfur dioxide by shifting fuels shall:

Submit letter of intent by - January 1, 1973
Start construction by - May 1, 1973
Complete construction and start up by - July 1, 1973
Submit performance results by - October 1, 1973

(b) Sources in all other Indiana Counties that elect to reduce emissions of sulfur dioxide by shifting fuels shall:

Submit letter of intent by - April 1, 1973
Start construction by - September 1, 1973
Complete construction and start up by - January 1, 1974
Submit performance results by - April 1, 1974

c) All Indiana sources that elect to comply by installing control equipment shall:

Submit plans and specifications by - July 1, 1973
Start construction by - January 1, 1974
Complete construction and start up by - January 1, 1975
Submit performance results by - April 1, 1975

(4.0) REGULATION APC 14

Ambient Air Quality Concentrations for Sulfur Dioxide; Particulate Matter; Carbon Monoxide; Photochemical Oxidants; Hydrocarbons; and Nitrogen Dioxide for the State of Indiana

A. Air quality standards represent air quality goals established for the purpose of protecting public health and welfare. This provides a basis for State, local and regional planning for the abatement and control of pollutant emissions from existing sources and for preventive measures to insure that urban and economic growth trends do not add to community air pollution problems.

Primary standards are set to protect the public health. Secondary standards protect against effects on soil, water, vegetation, materials, animals, weather, visibility, and personal comfort and well-being.

B. It is the intent of the Board to maintain present air quality, consistent with the provisions of the Indiana Air Pollution Control Law, in any portion of the State where quality of the ambient air is better than the standards.

C. Accurate representation of pollution levels will be determined by sampling stations at fixed locations in areas beyond the premises on which a source is located. A station will be placed in a location which is representative of the area. The standards are applicable at each sampling station in the State.

The following ambient air quality standards are applicable in the State of Indiana:

(4.2) 1. Sulfur Dioxide (SO_2)

Primary Standards - The maximum allowable limits for the protection of public health:

(a) 80 ug/m^3 (0.03 ppm) maximum annual arithmetic mean (24-hour samples)

(b) 365 ug/m^3 (0.14 ppm) maximum 24-hour concentration not to be exceeded more than one day per year.

Secondary Standards - The maximum allowable limits for the protection of vegetation and materials:

(a) 60 ug/m^3 (0.02 ppm) maximum annual arithmetic mean (24-hour samples)

(b) 260 ug/m^3 (0.10 ppm) maximum 24-hour concentration not to be exceeded more than one day per year

(c) 1,100 ug/m^3 (0.42 ppm) maximum 1-hour concentration not to be exceeded more than once per year.

Sulfur dioxide values may be converted to ppm using the conversion factor 2,620 ug/m^3 = 1.0 ppm at 25°C. and 760 millimeters of mercury.

(4.1) 2. Suspended Particulate

Primary Standards - the following average concentrations shall represent the maximum allowable limits for the protection of public health:

(a) 75 ug/m^3 maximum annual geometric mean

(b) 260 ug/m^3 maximum 24-hour concentration not to be exceeded more than once per year.

Secondary Standards - The following average concentrations shall represent the maximum allowable limits to protect against effects on soil, water, vegetation, materials, animals, visibility, and personal comfort and well-being:

(a) 60 ug/m^3 maximum annual geometric mean

(b) 150 ug/m^3 maximum 24-hour concentration not to be exceeded more than once per year.

(4.5) 3. Carbon Monoxide (CO)

Primary and Secondary Standards - The following average concentrations shall represent the maximum allowable limits for safe human activities in terms of CO concentrations:

(a) 10 mg/m^3 (9 ppm) maximum 8-hour concentration not to be exceeded more than once per year

(b) 40 mg/m^3 (35 ppm) maximum 1-hour concentration not to be exceeded more than once per year.

Carbon Monoxide values may be converted to ppm using the conversion factor 1 mg/m^3 = 0.873 ppm at 25°C. and 760 millimeters of mercury.

(4.6) 4. Photochemical Oxidants

Primary and Secondary Standards - The following average concentrations shall represent the maximum allowable limit of photochemical oxidants for safe human activities and for the protection of vegetation in terms of ozone concentrations:

160 ug/m^3 (0.08 ppm) maximum 1-hour concentration not to be exceeded more than once per year

Ozone values may be converted to ppm using the conversion factor 1,963 ug/m^3 = 1.0 ppm at 25°C. and 760 millimeters of mercury.

(4.4) 5. Hydrocarbons

Primary and Secondary Standards - The following average concentration shall represent the maximum allowable limit of total non-methane hydrocarbons measured as methane to control the formation of toxic photochemical oxidants:

160 ug/m^3 (0.24 ppm) maximum 3-hour concentration (6 a.m. to 9 a.m.) not to be exceeded more than once per year

Methane values may be converted to ppm using the conversion factor 654 ug/m^3 = 1.0 ppm at 25°C. and 760 millimeters of mercury.

(4.3) 6. Nitrogen Dioxide (NO_2)

Primary and Secondary Standards - the following average concentration shall represent the maximum allowable limit for safe human activities in terms of NO_2 concentrations:

100 ug/m^3 (0.05 ppm) maximum annual arithmetic mean

Nitrogen Dioxide values may be converted to ppm using the conversion factor 1,880 ug/m^3 = 1.0 ppm at 25°C. and 760 millimeters of mercury.

(50.4)
(51.16)

REGULATION APC 15

Maximum Allowable Hydrocarbon Emissions

Sec. 1. (Definitions) The following terms, as used in this regulation unless otherwise provided, shall have the following meanings:

(a) The term "Submerged Fill Pipe" shall mean fill pipe the discharge opening of which is entirely submerged when the liquid level is 6 inches above the bottom of the tank; or when applied to a tank which is loaded from the side, shall mean any fill pipe the discharge of which is entirely submerged when the liquid level is 18 inches or is twice the diameter of the fill pipe, whichever is greater, above the bottom of the tank.

(b) The term "Volatile Organic Materials" shall mean any material containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element which has a vapor pressure of 2.5 pounds per square inch absolute or greater under actual conditions.

Sec. 2. These regulations are applicable to all existing stationary sources located within an air quality control region designated as a Priority I Region and to all new stationary sources regardless of location. An "Air Quality Control Region" is defined in the November 25, 1971, Federal Register, 36 CFR 22421 through 22448 (Part 81), and a "Priority I Region" is classified in the May 31, 1972, Federal Register, 37 CFR 10863 through 10865 (Subpart P). Hydrocarbon emissions from all stationary sources shall be controlled to meet rules set forth herein to attain the desired air quality standards and to maintain air quality consistent with the law where it is better than the standards, and existing sources shall adhere to the following compliance schedule:

Submit plans and specifications by	- April 1, 1973
Start construction by	- January 1, 1974
Complete construction and start up by	- January 1, 1975
Submit performance results by	- April 1, 1975

Sec. 3. Storage Of Volatile Organic Materials

(a) No person shall place, store, or hold in any stationary tank, reservoir or other container of more than 40,000 gallons capacity any volatile organic material unless such tank, reservoir, or other container is a pressure tank capable of maintaining working pressures sufficient at all times to prevent vapor or gas loss to the atmosphere or is designed and equipped with one of the following vapor loss control devices:

(1) A floating roof, consisting of a pontoon-type, double deck-type or internal floating cover, resting on the surface of the liquid contents and equipped with a closure seal or seals to close the space between the roof edge and tank wall. This control equipment shall not be permitted if the volatile organic material has a vapor pressure of 12.0 pounds per square inch absoute or greater under actual storage conditions.

(2) A vapor recovery system, consisting of a vapor gathering system capable of collecting the vapors and gases discharged and a vapor disposal system capable of processing such vapors and gases so as to prevent their emission to the atmosphere.

(3) Other equipment or means for purposes of vapor less control as may be approved by the Board.

(b) No person shall place, store or hold in any stationary storage vessel of more than 250 gallons capacity any volatile organic compound unless such vessel is equipped with a submerged fill pipe during loading operations, or is a pressure tank, or is equipped with a vapor recovery system as described in Sec. 3 (a).

Sec. 4. Volatile Organic Materials Loading Facilities

(a) No person shall load any volatile organic materials into any tank, tank car, truck, trailer, or barge from any loading facility unless such loading facility is equipped with a vapor collection and disposal system or its equivalent, properly installed, in good working order and in operation.

(b) When loading of volatile organic materials into any tank, tank car, truck, trailer, or barge through a loading arm equipped with a vapor collecting adaptor, a pneumatic, hydraulic or other mechanical means shall be provided to force a vapor-tight seal between the adaptor and the hatch. A means shall be provided to prevent liquid organic material drainage from the loading device when it is removed from the hatch of any tank, tank car, truck, trailer, or barge or to accomplish complete drainage before such removal.

(c) When loading of volatile organic materials is effected through means other than hatches, all loading and vapor lines shall be equipped with fittings which make vapor-tight connections and which close automatically when disconnected.

(d) This rule shall not apply to the loading of volatile organic materials into tank, tank car, truck, trailer, or barge from any loading facility which handles less than 40,000 gallons of volatile organic material in any one day.

Sec. 5. Volatile Organic Liquid - Water Separators

(a) No person shall use any compartment of any single or multiple compartment volatile organic liquid - water separator which compartment normally receives effluent water containing 200 gallons per day or more of any volatile organic liquid from any equipment processing, refining, treating, storing, or handling volatile organic liquids unless such compartment is equipped with one of the following vapor loss control devices, properly installed, in good working order and in operation:

(1) A solid cover.

(2) A floating roof or cover resting on the surface of the liquid contents.

(3) A vapor recovery system of suitable design.

(4) Other equipment or means to control evaporation losses as may be approved by the Board.

(b) This rule shall not apply to any volatile organic material - water separator used exclusively in conjunction with the production of crude oil.

Sec. 6. Waste Gas Emissions

(a) Petroleum Refinery Emissions - No person shall cause or allow the discharge of hydrocarbons from any catalyst regeneration of a petroleum cracking system or from any petroleum fluid coker into the atmosphere unless the waste gas stream is burned in a direct-flame afterburner or boiler or is controlled by other means approved by the Board.

(b) Ethylene Manufacturing Emissions - No person shall emit a waste gas stream from any ethylene producing plant into the atmosphere unless the waste gas stream is properly burned in a direct-flame afterburner or is controlled by other means as may be approved by the Board.

(c) Vapor Blowdown - No person shall emit hydrocarbon gases to the atmosphere from any vapor blowdown stream, except pressure relief valves which are required for safety reasons, unless these gases are burned in flares of smokeless design or are controlled by other means as may be approved by the Board.

Sec. 7. Volatile Waste Organic Liquids

(a) No person shall dispose of any liquid or semi-liquid volatile waste organic material or sludge within the State of Indiana by any means other than as follows:

(1) Refining by acceptable means, within the scope of this regulation or other regulations that are applicable, to produce an acceptable produce for reuse.

(2) Consuming in heat generation equipment, so that its heat value can be utilized, and compliance with this regulation or other applicable regulations are met.

(3) Incineration by acceptable means if (1) and (2) above are not economically feasible. Compliance with this regulation or other regulations shall be accomplished.

(4) Other means for disposal, acceptable to the Board, but in no case discarding in a landfill, refuse dump or the equivalent.

Sec. 8. Emissions Of Organic Solvents

(a) No person shall emit or cause the emission of more than 3 pounds of organic materials in any one hour or 15 pounds of organic materials in any one day (24 hours) from any article, machine, or equipment unless all organic materials emitted from such article, machine, or equipment are reduced by at least 85 percent from emissions before the application of any control equipment or process.

(1) The aggregate emissions of organic materials into the atmosphere from any series of articles, machines, or equipment designed for processing a continuously moving sheet, web, strip, or wire by a combination of operations shall comply with the requirements of this section.

(2) Emissions of organic materials into the atmosphere which result from the cleaning of any article, machine or equipment with organic solvents shall be included with the other emissions or organic materials from such article, machine or equipment in determining compliance with this section.

(3) Emissions of organic materials into the atmosphere which result from the spontaneous drying of products after their removal from any article, machine, or equipment shall be included with other emissions of organic materials from such article, machine, or equipment in determining compliance with this section.

(b) The provisions of this section shall not apply to:

(1) The manufacture of organic solvents.

(2) The spraying or other employment of insecticides, pesticides, or herbicides.

(3) Industrial surface coating operations when the coating's solvent make-up is water-based and does not exceed 20 percent of organic materials by volume.

(4) The use of the following solvents: saturated halogenated hydrocarbons, perchlorethylene, benzene, acetone, C_1-C_5 n-paraffins, cyclohexanone, ethyl acetate, diethylamine, isobutyl acetate, isopropyl alcohol, methyl benzoate, 2-nitropropane, phenyl acetate, and triethylamine, and other organic solvents that have been determined by the Air Pollution Control Board to be photochemically unreactive in the formation of oxidants.

(c) For the purposes of this section:

(1) Organic materials are defined as chemical compounds of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, metallic carbonates, and ammonium carbonate.

(2) Organic solvents are defined as organic materials which are liquids at standard conditions, and include diluents which are used as dissolvers, viscosity reducers, and cleaning agents.

(d) A greater degree of control may be required to prevent a health hazard or a local nuisance because of the particular properties of a specific organic compound. Determination of a health hazard will be based upon such factors as threshold limit values, presence of carcinogens, and other accepted health indicators.

(e) Acceptable control methods to provide compliance shall be:

(1) Consuming such gases or vapors in acceptable fuel burning equipment.

(2) Absorption or adsorption by acceptable means.

(3) Incineration by direct flame or catalytic combustion means, preferably with heat recovery means.

(4) Oxidation by chemical means utilizing oxidizing agents or ozone, if practical.

(5) Other means acceptable to the Board.

(50.5) REGULATION APC 16

Maximum Allowable Carbon Monoxide Emissions

Sec. 1. This regulation is applicable to all stationary sources of carbon monoxide (CO) emissions located within a "Basin Priority A", as defined and specified in Regulation APC 22, and to all new stationary sources regardless of location. Carbon monoxide emissions from all stationary sources shall be controlled to meet rules set forth herein to attain the desired air quality standards and to maintain air quality consistent with the law where it is better than the standards, and existing sources shall adhere to the following compliance schedule:

Submit plans and specifications by	- April 1, 1973
Start construction by	- January 1, 1974
Complete construction and start up by	- January 1, 1975
Submit performance results by	- April 1, 1975

Sec. 2. Emission of carbon monoxide shall be limited to the following:

(a) Petroleum Refining Emissions - No person shall cause or allow the discharge of carbon monoxide from any catalyst regeneration of a petroleum cracking system or from any petroleum fluid coker into the atmosphere unless the waste gas stream is burned in a direct-flame afterburner or boiler or is controlled by other means approved by the Board.

(b) Ferrous Metal Smelters - No person shall cause or allow the discharge of carbon monoxide from any grey iron cupola, blast furnace, basic oxygen steel furnace, or other ferrous metal smelting equipment, having a capacity of 10 tons per hour or more process weight, unless the waste gas stream is burned in a direct-flame afterburner or boiler or is controlled by other means approved by the Board. In instances where carbon monoxide destruction is not required, carbon monoxide emissions shall be released at such elevation that the maximum ground level concentration from a single source shall not exceed 20% of the maximum one-hour Indiana ambient air quality value for carbon monoxide.

(c) Refuse Incineration and Burning Equipment - No person shall cause or allow the discharge of carbon monoxide from refuse incineration or burning equipment, unless the waste gas stream is burned in a direct-flame afterburner or is controlled by other means approved by the Board.

(50.3) REGULATION APC 17

Maximum Allowable Nitrogen Oxides Emissions

Sec. 1. Emissions from all stationary sources of nitrogen oxides shall be limited to the following:

(a) No person shall cause or allow the emission of nitrogen oxides from fuel burning equipment with a capacity of 250 million Btu per hour or more in excess of the following limits:

(1) In the case of gas firing, 0.20 pounds of NO_2 per million Btu of heat input.

(2) In the case of oil firing, 0.30 pounds of NO_2 per million Btu of heat input.

(3) In the case of coal firing, 0.70 pounds of NO_2 per million Btu of heat input.

Sec. 2. This regulation is applicable to all existing stationary sources on Nitrogen Oxides emissions located within a "Basin Priority A" as defined in Regulation APC 22 and to all new stationary sources regardless of location.

(3.0) REGULATION APC 19

Permits

Sec. 1. Definitions As Used In This Regulation

(a) "Stationary source" means any one machine, device, apparatus, equipment, installation, building, or other physical facility which emits or has the potential to emit any air contaminant.

(b) The term "agency" as used herein shall mean the Air Pollution Control Board of the State of Indiana.

(c) "Monitoring instrument" is a device which measures an emission concentration at a specific location in the chimney or stack.

(d) "Modification" means any physical change in, or change in the method of operation of, a stationary source which increases the amount of emissions (to which a standard applies) or which results in the emission of any air contaminant not previously emitted, except that:

(1) Routine maintenance and repairs shall not be considered physical changes.

(2) The following shall not be considered a change in the method of operation:

(i) An increase in the production rate, if such increase does not exceed the operating design capacity of the affected facility.

(ii) An increase in hours of operation.

(e) "Commence" means that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a binding agreement or contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

(f) "Standard" means a standard of performance proposed or promulgated by this agency.

(g) "National standard" means either a primary or secondary ambient air quality standard promulgated pursuant to Section 109 of the Clean Air Act of 1970.

(h) "Person" is as defined in IC 1971, 13-7-1.

Sec. 2. Construction Permits

(a) No person shall commence construction or modification of any stationary source after the effective date of this regulation without first obtaining approval from the agency for the location and design of such source.

(1) Application for approval to construct or modify shall be made on forms furnished by the agency or by other means prescribed by the agency.

(2) A separate application is required for each stationary source.

(3) Each application shall be signed by an authorized individual whose signature shall constitute an agreement that the applicant shall assume the responsibility of determining that the equipment shall meet the emission standards as set forth by the applicable rules and regulations of the agency.

Each application shall be accompanied by site information, plans, descriptions, specifications and drawings showing the design of the source, the nature and amount of emissions, and the manner in which it will be operated and controlled.

(4) Plans and specifications must be prepared by or approved by a professional engineer registered to practice in the State of Indiana in accordance with the provision of IC 1971, 25-31-1. This shall not apply to an installation which costs $10,000 or less.

(5) Any additional information, plans, specifications evidence, or documentation that the agency may require shall be furnished upon request.

(6) The agency may grant preliminary approval prior to commencing construction on receipt of engineering design data and site location information.

(b) No approval to construct or modify will be granted unless the applicant shows to the satisfaction of the agency that:

(1) The source will operate without causing a violation of any State regulation.

(2) The source will not prevent or interfere with attainment or maintenance of any national standard as established by the provisions of the Clean Air Act.

(3) Emissions from all stationary sources shall be controlled to meet standards set forth by regulation to attain the desired air quality and maintain air quality consistent with the law where it is better than the standards.

(c) The agency will act within 60 days on an application and will notify the applicant in writing relative to approval, conditional approval, or denial of the application. The agency will set forth its reasons for any denial.

(d) The agency may impose conditions of approval, including conditions requiring the source to be provided with, but not limited to:

(1) Sampling ports of a size, number, and location as the agency may require.

(2) Safe access to each port.

(3) Instrumentation to monitor and record emission data.

(4) Any other sampling and testing facilities.

(5) Records and reports will be maintained for all monitoring devices required by the agency in a fund that shall be stipulated or approved by the agency.

(6) The agency shall establish guidelines covering monitoring schedules, methods for monitoring emissions, and methods for calibration of monitoring instruments.

(e) The agency may cancel an approval if the construction is not begun within 2 years from the date of issuance, or if during the construction, work is suspended for a continuous period of 1 year.

(f) Within 60 days after achieving maximum production rate at which the source will be operated but not later than 180 days after initial startup of such source the person shall, if requested by the agency, conduct a performance test(s) in accordance with methods and under operating conditions approved by the agency and furnish the agency a written report of the results of such performance test.

(1) Such test shall be at the expense of the responsible person.

(2) The agency may monitor such test and may also conduct performance tests.

(3) The person responsible shall provide the agency 15 days prior notice of the performance test to afford the agency the opportunity to have an observer present.

(g) Information relating to confidential data is set forth in IC 1971, 13-7-16-3(b).

Sec. 3. Operation Permits

(a) All stationary sources in operation or production on the effective date of this regulation must have a valid operation permit. Application for these sources must be made to the agency by July 1, 1973.

(2) Applications for a permit must be made on forms provided by the agency.

(b) After the effective date of this regulation, no new stationary source or modification of an existing stationary source, shall begin operation until a valid operation permit has been issued by the agency.

(1) Applications for permits to operate must be made on forms provided by the agency and must be submitted 60 days in advance of the date the operation is to begin.

(c) The agency may specify for each permit the conditions and limitations for operation of the stationary source, including, but not limited to:

(1) Sampling ports of a size, number, and location as the agency may require.

(2) Safe access to each port.

(3) Instrumentation to monitor and record emission data.

(4) Any other sampling and testing facilities.

(5) Records and reports will be maintained for all monitoring devices required by the agency.

(6) The agency shall establish guidelines covering monitoring schedules, methods for monitoring emissions, and methods for calibration of monitoring instruments.

(d) Each application shall be signed by an authorized individual whose signature shall constitute an agreement that the applicant shall assume responsibility for operating such source in accordance with applicable rules and regulations of the agency.

(e) No approval to operate will be granted unless the applicant shows to the satisfaction of the agency that:

(1) The source will operate without causing a violation of any State regulation.

(2) The source will not prevent or interfere with attainment or maintenance of any national standard as established by the provisions of the Clean Air Act.

(3) Emissions shall be controlled to meet standards set forth by regulation to attain the desired air quality and maintain air quality consistent with the law where it is better than the standards.

(f) Permits to operate shall be effective for any period of time not to exceed four years. Applications for renewal of an operating permit must be submitted 120 days in advance of the date the permit expires.

(g) When a transfer of ownership or location occurs, a new operating permit must be requested within 60 days.

Sec. 4. Permits Not Required

(a) Operation and construction permits are not required for the following:

(1) Air conditioning or ventilation systems not designed to remove air pollutants generated by or released from equipment.

(2) Fuel burning equipment:

(i) Which uses gas or distillate oil (#1 or #2) as fuel for space heating, air conditioning, or heating water.

(ii) That is used in single or multiple dwellings containing four or less apartment units.

(iii) That has a heat input of not more than 1,500,000 BTU per hour.

(3) Laboratory fume hoods which discharge to the atmosphere.

(4) Other sources of minor significance specified by the agency such as:

Particulate matter, 5 pounds per hour or 25 pounds per day.
Sulfur dioxide, 10 pounds per hour or 50 pounds per day.
Nitrogen oxides, 5 pounds per hour or 25 pounds per day.
Hydrocarbons, 3 pounds per hour or 15 pounds per day.
Carbon monoxide, 50 pounds per hour or 250 pounds per day.

Emissions to be calculated by the agency by use of emission factors contained in the latest edition of "Compilation of Air Pollution Factors," published by the United States Environmental Protection Agency, or as calculated by the agency based on stack test data or other data acceptable to the agency; or as agreed upon between the agency and the source owner.

Sec. 5. Permit Revocation

(a) Any permit granted by the agency may be revoked or modified in accordance with IC 1971, 13-7-10-5.

Sec. 6. Permit No Defense

(a) The issuance and possession of any permit shall not constitute a defense of a violation of any law, regulation or standard.

Sec. 7. Local Jurisdiction

(a) Nothing contained in this regulation shall be deemed to affect or modify the terms or requirements of any ordinance or regulation of any governmental unit within the State of Indiana which provides for equal or more restrictive requirements and any governmental unit having such a regulation or ordinance may be delegated the duties otherwise designated herein as those of the agency subject to qualifications as the agency may require.

Sec. 8. Validity

(a) If any section, paragraph, sentence, clause, phrase, or word of this regulation, or any other part thereof, be declared unconstitutional or invalid for any reason, the remainder of said regulation shall not be affected thereby and shall remain in full force and effect.

Sec. 9. Repeal

(a) This regulation shall, upon promulgation, repeal Regulation APC 1 covering reports, plans and specifications, promulgated December 6, 1968, as found in Burns Administrative Rules and Regulations (1972 Supp.) (35-4604-1).

(50.1) REGULATION APC 20

Maximum Allowable Fugitive Dust

A Regulation concerning the generation of fugitive dust from activities of industrial, commercial, governmental, private, and other operations within the State of Indiana.

Sec. 1. Definitions

(a) Fugitive Dust - The generation of particulate matter to the extent that some portion of the material escapes beyond the property line or boundaries of the property, right-of-way or easement on which the source is located.

(b) Respirable Dust - Particles in the range of 0.5 microns to 6.0 microns in diameter.

Sec. 2. Allowable Emissions - A source or sources generating fugitive dust shall be said to be in violation of this regulation if any of the following criteria are violated:

(a) Maximum Allowable Particles - A source or combination of sources caused to exist fugitive dust concentrations greater than 67% in excess of ambient upwind concentrations as determined by the following formula:

$$P = \frac{100\ (R-U)}{U}$$

P = Percentage increase

R = Number of particles of fugitive dust measured at downwind receptor site

U = Number of particles of fugitive dust measured at upwind or background site

(b) Potential Respiratory Damage - The fugitive dust is comprised of 50% or more respirable dust, then the percent increase of dust concentration in Section 2(a) shall be modified as follows:

$P_R = (1.5 - N)\ P$

Where N = Fraction of fugitive dust that is respirable dust; P_R = allowable percentage increase in dust concentration above background; and P = no value greater than 67%.

(c) Ambient Air Concentrations - The ground level ambient air concentrations exceed 50 micrograms per cubic meter above background concentrations for a 60-minute period.

Sec. 3. Applicability

(a) This regulation shall apply to all sources of fugitive dust.

(b) The allowable particles shall refer to the total of all particles leaving the boundaries or crossing the property line of any source of fugitive dust regardless of whether from a single operation or a number of operations. If the source is determined to be comprised of two or more legally separate persons, each shall be held proportionately responsible on the basis of contributions by each person as determined by microscopic analysis. In such cases, samples shall be taken downwind from the combination of sources and at the fence line of each source.

(c) No source which is contributing to a combined downwind fugitive dust concentration in excess of the limits of this regulation shall be required to reduce emissions if the concentrations at his property line are in compliance unless all contributors are individually in compliance and a combined fugitive dust concentration still exceeds the limits of this regulation. Each source shall then be required to reduce its emissions by like percentages to achieve an acceptable combined downwind concentration.

(d) When all contributors are individually in compliance and no nuisance to the surrounding community is created, the Board may waive the requirement for further reduction in emissions by combined contributors.

(e) All sources must comply with this regulation as soon as practicable but no later than July 1, 1974.

Sec. 4. Mobile Fugitive Dust Sources - No vehicle shall be driven or moved on any public street, road, alley, highway, or other thoroughfare, unless such vehicle is so constructed as to prevent its contents from dripping, sifting, leaking, or otherwise escaping therefrom so as to create conditions which result in fugitive dust. This section applies only to the cargo any vehicle may be conveying and mud tracked by the vehicle.

Sec. 5. Methods of Measurement

(a) Particle Numbers and Sizes - Particle quantities and sizes will be measured by manual microscopic analysis of a dustfall sample collected on a sticky slide or by use of commercially available particle counting devices which count and classify particles by micron size range, or other methods acceptable to the Board.

(b) Ambient Air Concentrations - Ambient air concentrations shall be measured using the standard Hi Volume Sampling and Analysis Techniques as specified by EPA in April 30, 1971, Federal Register.

(c) Visible Emissions - Observations by a qualified representative of the Board of visible emissions crossing the property line of the source at or near ground level.

Sec. 6. Exceptions - The following conditions will be considered as exceptions to this regulation and therefore not in violation:

(a) Release of steam not in combination with any other gaseous or particulate pollutants unless the condensation from said steam creates a nuisance or hazard in the surrounding community.

(b) Fugitive dust from publicly maintained unpaved thoroughfares where no nuisance or health hazard is created by its usage or where it is demonstrated to the Board that no means are available to finance the necessary road improvements immediately. A reasonable long-range schedule for necessary road improvements must be submitted to support the Board's granting such an exception.

(c) Fugitive dust from construction or demolition where every reasonable precaution has been taken in minimizing fugitive dust emissions.

(d) Fugitive dust generated from agricultural operations providing every reasonable precaution is taken to minimize emissions and providing operations are terminated if a severe health hazard is generated because of prevailing meteorological conditions.

(e) Visible plumes from a stack or chimney which provide adequate dispersion and are in compliance with other applicable regulations.

(f) Fugitive dust from a source caused by adverse meteorological conditions.

(18.0) REGULATION APC 22

This Regulation is only approved for the priority ratings for CO_2 and NO_2 and all but 5 counties for SO_2.

Establish air quality basins and priority ratings for sulfur dioxide; particulate matter; carbon monoxide; photochemical oxidants/hydrocarbons; and nitrogen dioxide

Sec. 1. In addition to the definitions contained in IC 1971, 13-7 and IC 1971, 13-1-1, the following definitions shall apply herein:

(a) "Basin Priority A" shall mean any area of land (county) wherein the ambient air concentration for a specific contaminant or pollutant is equal to or in excess of the primary air quality standard as specified in regulation APC 14.

(b) "Basin Priority B" shall mean any area of land (county) wherein the ambient air concentration for a specific contaminant or pollutant is equal to or in excess of the secondary air quality standard but is less than the primary air quality standard as specified in regulation APC 14.

(c) "Basin Priority C" shall mean any area of land (county) wherein the ambient air concentration for a specific contaminant or pollutant is less than the secondary air quality standards as specified in regulation APC 14.

Sec. 2. As authorized by I.C. 1971, 13-7-7-2 the air quality of each county within the State of Indiana has been determined through a study of the ambient air quality data; topography, demography; stack heights of major emission sources; proximity concentration of two or more emission sources; computer simulated air quality display models; and other methods for evaluating contaminants from stationary sources for particulate matter (Pt), sulfur dioxide (SO_2), photochemical oxidants/hydrocarbons (O_3), carbon monoxide (CO) and nitrogen dioxide (NO_2).

Sec. 3. The Basin Priority rating as specified herein shall be used to denote those basins (counties):

(a) where program emphasis shall be directed,

(b) where emission control regulations or provisions within such regulations shall be applied or modified to achieve the specified Indiana Air Quality Standards, and

(c) where applicable regulations or provisions of such regulations shall be applied to maintain the air quality where such is better than the secondary standards.

Sec. 4. Each of the following listed counties (basins) are assigned the designated "Basin Priority" rating for the specifically listed contaminant (pollutant).

Basin Number	Basin (County)	Pt	SO_2	O_3	CO	NO_2
AQB01	Adams	C	C	C	C	C
AQB02	Allen	B	C	C	C	C
AQB03	Bartholomew	C	C	C	C	C
AQB04	Benton	C	C	C	C	C
AQB05	Blackford	B	C	C	C	C
AQB06	Boone	C	C	C	C	C
AQB07	Brown	C	C	C	C	C
AQB08	Carroll	C	C	C	C	C
AQB09	Cass	C	C	C	C	C
AQB10	Clark	B	C	C	C	C
AQB11	Clay	C	C	C	C	C
AQB12	Clinton	C	C	C	C	C
AQB13	Crawford	C	C	C	C	C
AQB14	Daviess	C	C	C	C	C
AQB15	Dearborn	B	B	C	C	C
AQB16	Decatur	C	C	C	C	C
AQB17	Dekalb	C	C	C	C	C
AQB18	Delaware	B	C	C	C	C
AQB19	Dubois	C	C	C	C	C
AQB20	Elkhart	B	C	C	C	C

Basin Number	Basin (County)	Pt	SO_2	O_3	CO	NO_2
AQB21	Fayette	C	C	C	C	C
AQB22	Floyd	B	C	C	C	C
AQB23	Fountain	C	C	C	C	C
AQB24	Franklin	C	C	C	C	C
AQB25	Fulton	C	C	C	C	C
AQB26	Gibson	C	C	C	C	C
AQB27	Grant	B	C	C	C	C
AQB28	Greene	C	C	C	C	C
AQB29	Hamilton	C	C	C	C	C
AQB30	Hancock	C	C	C	C	C
AQB31	Harrison	C	C	C	C	C
AQB32	Hendricks	C	C	C	C	C
AQB33	Henry	C	C	C	C	C
AQB34	Howard	B	C	C	C	C
AQB35	Huntington	C	C	C	C	C
AQB36	Jackson	C	C	C	C	C
AQB37	Jasper	C	C	C	C	C
AQB38	Jay	C	C	C	C	C
AQB39	Jefferson	C	C	C	C	C
AQB40	Jennings	B	C	C	C	C
AQB41	Johnson	C	C	C	C	C
AQB42	Knox	C	C	C	C	C
AQB43	Kosciusko	C	C	C	C	C
AQB44	LaGrange	C	C	C	C	C
AQB45	Lake	A	A	A	C	C
AQB46	LaPorte	C	C	C	C	C
AQB47	Lawrence	B	C	C	C	C
AQB48	Madison	B	C	C	C	C
AQB49	Marion	A	B	A	C	C
AQB50	Marshall	C	C	C	C	C
AQB51	Martin	C	C	C	C	C
AQB52	Miami	C	C	C	C	C

Basin Number	Basin (County)	Pt	SO_2	O_3	CO	NO_2
AQB53	Monroe	B	C	C	C	C
AQB54	Montgomery	C	C	C	C	C
AQB55	Morgan	B	C	C	C	C
AQB56	Newton	B	C	C	C	C
AQB57	Noble	C	C	C	C	C
AQB58	Ohio	C	C	C	C	C
AQB59	Orange	C	C	C	C	C
AQB60	Owen	C	C	C	C	C
AQB61	Parke	C	C	C	C	C
AQB62	Perry	B	C	C	C	C
AQB63	Pike	C	C	C	C	C
AQB64	Porter	B	C	C	C	C
AQB65	Posey	C	C	C	C	C
AQB66	Pulaski	C	C	C	C	C
AQB67	Putnam	B	C	C	C	C
AQB68	Randolph	C	C	C	C	C
AQB69	Ripley	C	C	C	C	C
AQB70	Rush	B	C	C	C	C
AQB71	St. Joseph	B	C	C	C	C
AQB72	Scott	C	C	C	C	C
AQB73	Shelby	C	C	C	C	C
AQB74	Spencer	C	C	C	C	C
AQB75	Starke	C	C	C	C	C
AQB76	Steuben	B	C	C	C	C
AQB77	Sullivan	C	C	C	C	C
AQB78	Switzerland	C	C	C	C	C
AQB79	Tippecanoe	B	C	C	C	C
AQB80	Tipton	C	C	C	C	C
AQB81	Union	C	C	C	C	C
AQB82	Vanderburgh	B	C	C	C	C
AQB83	Vermillion	C	C	C	C	C
AQB84	Vigo	B	C	C	C	C

Basin Number	Basin (County)	Pt	SO_2	O_3	CO	NO_2
AQB85	Wabash	B	C	C	C	C
AQB86	Warren	C	C	C	C	C
AQB87	Warrick	C	B	C	C	C
AQB88	Washington	C	C	C	C	C
AQB89	Wayne	B	C	C	C	C
AQB90	Wells	C	C	C	C	C
AQB91	White	C	C	C	C	C
AQB92	Whitley	C	C	C	C	C

Sec. 5. That the Air Pollution Control Board shall redesignate ratings for counties where an appropriate change in air quality has been demonstrated or where emission levels or other factors indicate the necessity for such priority changes. The Regional Office must approve all re-classification.

ORDINANCE

AIR POLLUTION CONTROL

ST. JOSEPH COUNTY, INDIANA

ARTICLE I

(2.0) General Provisions.

(2.0) Sec. 1.1. - Short Title. This ordinance shall be known and cited as the "St. Joseph County Air Pollution Control Ordinance."

(2.0) Sec. 1.2. - Purpose. This ordinance is designed to prevent and control air pollution by establishing the Division of Pollution Control within the Health Department, and prescribing additional duties of the Health Officer, empowering investigation and abatement by the Health Officer of violations of this ordinance, providing for the establishment and enforcement of rules and regulations, providing for a pollution appeals board, providing for registration of pollution sources, registration of the installation, construction, addition to, alteration, and use of process, fuel burning, refuse burning and control equipment and for fees for the same, providing for inspection and tests of process, fuel burning, refuse burning, control equipment and occurrences, and for the issuance of approvals and for fees therefor, establishing limitations upon the emission of pollutants, declaring emissions which do not meet such limitations to be unlawful and a public nuisance, prohibiting certain acts causing pollution, providing for fines and penalties for violation of the provisions of this ordinance, and providing just and adequate means by which provisions of this ordinance may be executed.

(1.0) Sec. 1.3. - Definitions. The following words and phrases when used in this ordinance shall for the purpose of this ordinance have the meanings respectively ascribed to them in this Article I, unless a different meaning is clearly indicated:

(a) "Advisory Committee" The Pollution Control Advisory Committee created by Section 2.5 of this ordinance.

(b) "Air Contaminant" Any smoke, soot, fly ash, dust, cinders, dirt, noxious or obnoxious acids, fumes, oxides, gases, vapors, odors, toxic or radioactive substances, waste, particulate, solid, liquid or gaseous matter, or any other materials or substances in the air, but excluding uncombined water.

(c) "Air Pollution" Presence in the air of one or more air contaminants in such quantities, characteristics, or duration as is or tends to be injurious to human life, health or welfare, or animal or plant life or health, or property, or would interfere with the enjoyment of life or property.

(d) "Appeals Board" The Pollution Appeals Board created by Section 2.3 of this ordinance.

(e) "ASME" American Society of Mechanical Engineers.

(f) "Board of County Commissioners" The Board of Commissioners of the County of St. Joseph, State of Indiana.

(g) "Board of Health" The Board of Health of the St. Joseph County Health Department.

(h) "BTU" British Thermal Unit: The quantity of heat required to raise one pound of water one degree from 59 degrees Fahrenheit to 60 degrees Fahrenheit.

(i) "Control Equipment" Any equipment which regulates process, fuel-burning or refuse-burning equipment which may release contaminants into the air.

(j) "County" St. Joseph County, Indiana.

(k) "Domestic Heating Equipment" Equipment generating heat for single family residence, or for two residences either in duplex or double house form, or for multiple-dwelling units in which such equipment serves fewer than three apartments. Under this designation are also hot water heaters, stoves, and spaceheaters used in connection with the foregoing establishments; provided, however, that like equipment used in multiple-dwelling units other than herein described, or used in buildings of commercial or industrial establishments, is not to be construed to be included under this designation.

(l) "Domestic Refuse-burning Equipment" Any refuse-burning equipment or incinerator, 1) used for single family residence or for two residences, either in duplex or double house form, or for multiple-dwelling units in which such equipment serves fewer than three apartments, and 2) having not over five (5) cubic feet capacity or twenty-five (25) pounds per hour burning rate.

(m) "Emission" The act of passing or ejecting solid, gaseous or liquid matter into the air; or the materials so passed into the air.

(n) "Fuel-burning Equipment" Any equipment, device, or contrivance used for the burning of any fuel and all appurtenances thereto, including ducts, breechings, control equipment, fuel-feeding equipment, ash-removal equipment, combustion controls, stacks, and chimneys, used for indirect heating in which the material being heated is not contacted by, and adds no substance to, the products of combustion.

(o) "Health Department" St. Joseph County Health Department.

(p) "Health Officer" The Health Officer of the St. Joseph County Health Department.

(q) "Incinerator" Any combustion device specifically designed for the destruction or reduction, by burning, of solid, semi-solid, gaseous or liquid matter.

(r) "Opacity" State of a substance which renders it partially or wholly impervious to the rays of light. Opacity as used in this ordinance refers to the obscuration of an observer's view.

(s) "Open burning" Any fire or burning from which the products of combustion are emitted directly into the air.

(t) "Particulate Matter" Any material, except uncombined water, that exists in a finely divided form as a liquid or solid at standard conditions.

(u) "Person" Any individual, partnership (limited or general), co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

(v) "Process Equipment" Any equipment or device for changing, storing or handling any material, and all appurtenances thereto, including ducts, stacks, combustion controls and other appurtenances, the use or existence of which may cause any discharge of an air contaminant into the air, but not including that equipment specifically defined as fuel-burning equipment or refuse-burning equipment in this ordinance.

(w) "Process Operation" Any action, treatment, or operation and the equipment used in connection therewith, and all methods or forms of manufacture or processing that may emit air contaminants.

(x) "Process Weight" The total weight of all materials introduced into any unit operation or unit source, including solid fuels, but excluding liquid fuels, gaseous fuels and combustion air.

(y) "Process Weight Per Hour" A rate established as follows: (a) For continuous or long-run steady-state unit operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof. (b) For cyclical or batch unit operation, the total process weight for a period that covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such a period. Where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of this definition, the interpretation that results in the minimum value for allowable emissions shall apply.

(z) "Refuse" Includes trash, waste material, garbage, rubbish and trade wastes.

(aa) "Refuse-burning Equipment" Any incinerator, equipment or device used for the reduction or destruction of refuse by burning, and all appurtenances thereto.

(bb) "Ringelmann Chart" A chart for grading the appearance, density or shade of grey or black smoke, as published, with instructions for use, by the United States Bureau of Mines in Information Circular 8333.

(cc) "Seal" A device affixed to process, fuel-burning, refuse-burning or control equipment or to premises in violation of this ordinance so as to prevent their use.

(dd) "Smoke" Small gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon, ash and other combustible material.

(ee) "Stack" Duct, chimney, flue, conduit or opening arranged for the emission into the air of air contaminants.

(ff) "Standard Conditions" A gas temperature of 60 degrees Fahrenheit and a gas pressure of 14.7 pounds per square inch absolute dry air.

(gg) "Trash Burner" A container of fire resistant materials, such as woven wire, metal with punched holes or concrete materials, with or without a cover or top, used to contain materials for burning. Burning in such a container for purposes of this ordinance is considered open burning.

ARTICLE II

(2.0) Administrative Organization.

(2.0) Sec. 2.1. - Administrative Organization and Enforcement.
(15.0)

(a) This ordinance shall be effective territorially throughout the County.

(b) The administration and enforcement of this ordinance shall be the responsibility of and be conducted by the Health Department and Health Officer.

(c) There is hereby created in the Health Department the Division of Pollution Control under the direction of the Health Officer.

(d) There is hereby created the position in the Health Department of Pollution Control Officer. He shall be appointed and his compensation fixed by the Board of Health.

(e) The Pollution Control Officer shall perform such duties as may be required of him by the Health Officer, and he shall supervise the execution of all laws, rules and regulations pertaining to air pollution as provided in this ordinance and in the absence of the Health Officer shall perform all of the duties and exercise all of the rights of the Health Officer under this ordinance.

(f) The Health Officer shall appoint and employ sufficient personnel to staff the Division of Pollution Control and to carry out the control and prevention of air pollution in the County.

(15.0) Sec. 2.2. - Power and Duties of the Health Officer.

The Health Officer shall have the power and duty to:

(a) Implement this ordinance;

(b) Issue such orders as may be necessary to effectuate the purposes of this ordinance and enforce the same by any administrative and judicial proceedings;

(c) Supervise the execution of all laws, rules and regulations pertaining to pollution as provided in this ordinance;

(d) Institute legal proceedings to prosecute violations of this ordinance and compel compliance therewith;

(e) Make inspections and tests of process, fuel burning, refuse burning, and control equipment and other occurrences to determine if there is compliance with the provisions of this ordinance;

(f) Investigate complaints of violations of this ordinance and make inspections and observations of pollution conditions and record such investigations, complaints, inspections, and observations;

(g) Examine the plans for the installation, construction, reconstruction or alteration of process, fuel burning, refuse burning and control equipment;

(h) Approve or reject applications for permits, and issue certificates, notices or other documents required under this ordinance;

(i) Prepare and place before the Board of County Commissioners for their consideration proposals for additions or revisions to this ordinance;

(j) Encourage voluntary cooperation by persons or affected groups in pollution control;

(k) Collect and disseminate information on pollution control;

(l) Work with planning and zoning agencies for the purpose of coordinating activities under provisions of this ordinance and fostering the best possible management of the air resources of the County;

(m) Advise, consult and cooperate with other local governmental units, agencies of other governmental units and private persons or industries pertaining to pollution and related matters;

(n) Make all administrative procedures necessary for the administration of the Division of Pollution Control;

(o) Delegate to the Pollution Control Office any duties and powers contained in this Section 2.2;

(p) Prepare and maintain all department records;

(q) Do any and all acts which may be necessary for the implementation and enforcement of the provisions of this ordinance.

(16.0) Sec. 2.3. - Appeals Board.

(a) A Pollution Appeals Board is hereby created and shall consist of five (5) members appointed by the Board of County Commissioners. One (1) member shall be a registered professional engineer in Indiana. One (1) member shall be a physician holding an unlimited license to practice medicine in Indiana. One (1) member shall be a lawyer holding a license to practice law in Indiana. The term of office shall be two (2) years, except that initial appointments for two of the members shall be for three (3) years, to be designated at the time of appointment. Term of office shall end on December 31. No member shall be an officer, employee or agent for any manufacturer, distributor or seller of pollution control equipment of any kind or nature, and if any member shall be an officer, employee or agent of any person or entity being cited by the Health Officer under this ordinance, then such member shall be disqualified to participate in the deliberations and actions of the Appeals Board relative to such citation:

(b) The Appeals Board shall have the power and duty to:

(1) Decide appeals from any decision, ruling, regulation, determination or order made by the Health Officer or Pollution Control Officer under this ordinance, in the manner and subject to the standards set forth in Section 2.4;

(2) Meet annually on the 4th Thursday of February to elect a Chairman, Vice Chairman and a Secretary and at any time to hear appeals;

(3) Make rules for the conduct of its business; and

(4) Meet at the call of its Chairman, the Health Officer or the Pollution Control Officer.

(c) The Appeals Board shall take no action without the affirmative vote of three (3) of its members present at a meeting duly called pursuant to Section 2.3(b) (2) or (4).

(16.0) Sec. 2.4. - Appeals to the Appeals Board.

(a) Any person who objects to a decision, ruling, regulation, determination or order made by the Health Officer or Pollution Control Officer under this ordinance may file with the Health Officer an appeal directed to the Appeals Board specifying with particularity the grounds on which the appeal is based and the relief sought. Such appeal shall be made within thirty (30) days from the date of such decision, ruling, regulation, determination or final order. A filing fee of Twenty-five Dollars ($25.00) shall be paid by the appellant to the Health Department at the time of filing the appeal. The Health Officer and Pollution Control Officer shall furnish to the Appeals Board all documents and papers in their possession or control relative to each matter under appeal, which documents and papers shall be returned by the Appeals Board to the Health Officer within five (5) days after a decision on the appeal. Within ten (10) days after an appeal has been filed, the Appeals Board shall set a date, time and place for a public hearing and shall give notice thereof by United States mail to the appellant and the Health Officer. The public hearing shall be set for a date not more than thirty (30) days after the date the appeal was filed.

(b) An appeal filed in the manner set forth in this Section shall stay the decision, ruling, determination or order appealed from, as the same applies to the appellant, until the Appeals Board has taken final action on the appeal. The Appeals Board shall take final action upon an appeal within thirty (30) days after the public hearing thereon. At the public hearing, any person may appear in person or by agent or attorney and present written evidence and oral testimony pertinent and material to the appeal, and to the issues raised thereby, and may examine and cross-examine witnesses. All testimony shall be given under oath. The Appeals Board shall affirm, modify or reverse the decision, ruling, regulation, determination or order appealed from as the same applies to the appellant, and such decision shall be binding on the appellant, the Health Officer and the Pollution Control Officer, unless reversed by a court of competent jurisdiction upon judicial review.

(c) The Appeals Board shall provide a reporter to take testimony and record all proceedings before the Appeals Board. The appeal, notice of date, time and place of public hearing, all exhibits submitted as evidence, all pleadings and motions, all testimony heard, the findings of fact by the Appeals Board and the decision of the Appeals Board shall constitute the record of such appeal, and any person may obtain a copy of such record from the Health Officer upon payment of the fee required by Section 11.4 of this ordinance.

(2.0) Sec. 2.5. - Advisory Committee.

(a) A Pollution Control Advisory Committee, hereafter referred to as Advisory Committee, is hereby created and shall consist of thirteen (13) members appointed by the Health Officer and shall include:

(1) One (1) registered professional engineer experienced and competent in matters of air pollution control;

(2) One (1) licensed physician knowledgeable in the health effects of air pollution;

(3) One (1) urban or regional planner;

(4) One (1) representative of the power generating industry;

(5) One (1) representative of the fuels industry;

(6) One (1) farmer;

(7) One (1) representative of the manufacturing components of industry;

(8) One (1) representative of conservation;

(9) One (1) laborer;

(10) Four (4) appointed at large.

(b) The Pollution Control Officer shall serve as Secretary to the Advisory Committee. The Advisory Committee shall annually select a Chairman and Vice Chairman from among its members. The term of office shall be four (4) years and shall expire on December 31.

(c) The Advisory Committee may consider and make recommendations on any matters contained in this ordinance which may be submitted to it by the Health Officer, the Pollution Control Officer or the Appeals Board, and may make recommendations on its own initiative concerning the administration of this ordinance.

(d) The Advisory Committee shall meet at the call of its Chairman, the Health Officer, or the Pollution Control Officer, or at the written request of three (3) members.

ARTICLE III

(3.0) Registration.

Sec. 3.1. - New Equipment. From and after March 1, 1971, no person shall cause or permit the installation or alteration of any process, fuel-burning, refuse-burning or control equipment within the County, which may emit air contaminants into the air, without first registering such equipment with the Health Officer as hereinafter provided.

Sec. 3.2. - Existing Equipment. No person shall, on or after May 1, 1971, operate or cause to be operated, any existing process, fuel-burning, refuse-burning or control equipment within the County, which may emit air contaminants into the air, without first registering such equipment with the Health Officer as hereinafter provided.

Sec. 3.3. - Registration and Information Required. Registration shall be made on forms furnished by the Health Officer and filed with the Health Officer, and shall include properly prepared plans and specifications for the equipment being registered. These plans and specifications shall include the description, form and dimensions of the equipment, the building or part thereof into or onto which such equipment is to be located, the means provided for admitting air for combustion, the composition of the fuel to be used, the maximum quantity of such fuel to be burned per hour, the kind and amount of raw materials to be processed, the operating characteristics, the purpose of such equipment, the number of emission points, the location and elevation of each emission point, and any other reasonable and pertinent information that may be requested by the Health Officer. In addition to the foregoing, these plans and specifications shall include, if known to the registrant, and if unknown to the registrant then it shall be so stated, the estimated maximum air contaminant rate and the timetable, the air contaminant concentration, gas volume and temperature at the emission point. Registration shall be maintained in a current status by notifying the Health Officer of any change in any item of information furnished, which notification shall be given within thirty (30) days after the change is made or discovered.

Sec. 3.4. - Exceptions. Sections 3.1 through 3.3 shall not apply to the following equipment, systems or situations:

(a) Domestic heating equipment or domestic refuse-burning equipment;

(b) Heating equipment of less than 251,000 BTU per hour input;

(c) Comfort heating equipment, boilers, water heaters, air heaters and steam generators with a rated input capacity of less than 251,000 BTU per hour;

(d) Fuel-burning equipment and incinerators used singly or jointly by occupants of dwellings containing two or less dwelling units;

(e) Comfort ventilating or cooling systems;

(f) Laboratory bench hoods which exhaust to outside air;

(g) Exhaust system for regulating steam and heat;

(h) Fuel-burning equipment using as fuel only natural gas, or liquified petroleum gas, or a mixed gas distributed by a utility in accordance with the rules of the Public Service Commission of the State of Indiana;

(i) Equipment used for domestic cooking of food for human consumption.

ARTICLE IV

(9.0) Inspections and Testing.

Sec. 4.1. - Authority to Conduct Tests. The Health Officer is hereby authorized to conduct, or cause to be conducted, any test or tests of any process, fuel-burning, refuse-burning or control equipment, or other equipment, device or occurrence, which, in his opinion, may result in emissions in excess of any of the limitations set forth in Article V or when, in his opinion, there is evidence that emissions from any such equipment, device or occurrence are exceeding any limitations set forth in Article V. Upon written notification by the Health Officer that specified tests are considered necessary, the person so notified may elect to conduct the tests required. In which event, the person shall notify the Health Officer in writing of this decision and of the time and place of such testing, and arrangements for the tests required shall be made not later than fifteen (15) days after the date notification of the necessity of tests is received. All tests so conducted shall be made in a manner acceptable to the Health Officer and a complete and detailed test report of such tests shall be furnished to the Health Officer not more than sixty (60) days after the date notification of the necessity of tests is received. The Health Officer may require that a representative of the Health Department be present during the making of such tests. Nothing in this section concerning tests made and paid for by any person shall be deemed to abridge the right of the Health Officer or his representatives to make, without prior notification, tests of any such equipment, device or occurrence at reasonable times and places at the expense of the County.

Sec. 4.2. - Test Facilities and Access. The owner or operator of the equipment, device or occurrence tested shall provide, at his expense, reasonable and necessary openings in the equipment, device or occurrence, and safe and reasonably easy access thereto, to permit valid samples and measurements to be taken. If a person refuses to supply test openings, access, scaffolding, and other necessary facilities requested by the Health Officer for making such tests, the Health Officer shall notify such person to show cause before him on a day certain, not less than ten (10) nor more than twenty (20) days from date of notice, why such facilities should not be provided, and failing this, why the equipment, device or occurrence should not be sealed.

Sec. 4.3. - Test Costs. If tests made pursuant to Section 4.1 substantiate that a violation exists of any of the limitations set forth in Article V, the person or persons liable for such violation shall be responsible for the cost of all necessary direct labor, materials and supplies used or expended in conducting such tests. If such tests do not substantiate that a violation exists, then such costs shall be the expense of the County. Provided, however, that the costs of complying with Section 4.2 shall be the responsibility of the owner or operator of the equipment, device or occurrence to be tested. In the event a person elects to make his own tests pursuant to the election granted by

Section 4.1, then the cost of making such tests shall be the responsibility of the person making such tests and not of the County, irrespective of the outcome of such tests.

Sec. 4.4. - Rights Upon Legal Entry. No person shall hinder, obstruct, delay, resist, prevent or in any manner interfere with or attempt to interfere with the Health Officer, his duly authorized representatives, or police officers in the making of tests and inspections provided by this Article IV, or shall refuse to permit the Health Officer, his duly authorized representatives, or police officers to perform their duties by refusing them, or any of them, entrance at reasonable hours to any premises in which there is probable cause to believe that any of the limitations of Article V are violated or are suspected of being violated.

ARTICLE V

(2.0) Emission Limitation Standards and Measurement.

(2.0) Sec. 5.1. - State and Federal Standards as Minimum Standards. Standards established, or hereafter established, by the Indiana Air Pollution Control Board, by agencies or departments of the government of the United States of America and by the Federal Clean Air Act of 1963 (Pub. L. 88-206), as amended in 1965 (Pub. L. 89-272) and in 1967 (Pub. L. 90-148), shall be minimum standards under this ordinance and are hereby made a part of this ordinance.

(50.1.3) Sec. 5.2. - Water Mist or Vapor. No person shall cause or allow to be discharged into the air from any source water mist or vapor of such density or opacity as to obscure an observer's view in an area of human or vehicular movement or activity to a degree equal to or greater than shade No. 1 on the Ringelmann Chart.

(50.1.2) Sec. 5.3. - Visible Emissions Prior to January 1, 1974. Prior to January 1, 1974, no person shall cause or allow to be discharged into the air from any source any grey or black air contaminant which is as dark or darker than shade No. 2 on the Ringelmann Chart or of such density or opacity as to obscure an observer's view to a degree equal to or greater than shade No. 2 on the Ringelmann Chart.

(50.1.2) Sec. 5.4. - Visible Emissions From and After January 1, 1974. From and after January 1, 1974, no person shall cause or allow to be discharged into the air from any source any grey or black air contaminant which is as dark or darker than shade No. 1 on the Ringelmann Chart or of such density or opacity as to obscure an observer's view to a degree equal to or greater than shade No. 1 on the Ringelmann Chart.

(51.5) Sec. 5.5. -Particulate Matter From Fuel-burning Equipment.

(a) General Provisions

(1) This section applies to installations in which fuel is burned for the primary purpose of producing heat or power by indirect heat transfer in which the products of combustion do not come into direct contact with other materials. Fuels include those such as coke, coal, lignite, coke breeze, fuel oil, and wood, but do not include refuse. When any products or by-products of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitations shall apply.

(2) The heat content of coal shall be determined according to ASTM method D-271-64 Laboratory Sampling and Analysis of Coal or Coke or ASTM method D-2015-62T Gross calorific value of solid fuel by the Adiabatic Bomb Calorimeter, which publications are made a part of this section by reference.

(3) For purposes of this section, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or stacks. The heat input value used shall be the equipment manufacturer's or designer's guaranteed maximum input, whichever is greater. The total heat input of all fuel-burning units on a plant or premises shall be used for determining the maximum allowable amount of particulate matter which may be emitted.

(4) The amount of particulate matter emitted shall be measured according to the American Society of Mechanical Engineers' Power Test Codes - PTC-27 dated 1957 entitled, "Determining Dust Concentrations in a Gas Stream," which publication is made a part of this section by reference.

(5) The Health Officer may modify this testing procedure or specify the use of more current procedures in accordance with good professional practice.

(b) Emission Limitations

(1) No person shall cause or allow to be discharged into the air particulate matter in the gases from any fuel-burning equipment in excess of the quantity set forth in the following table:

Heat input, millions of British thermal units per hour.	Maximum allowable rate of emission of particulate matter, pounds per million British thermal units of heat input.
10 or less	0.600
50	0.412
100	0.352
500	0.242
1,000	0.207
4,000	0.150
8,000	0.102
10,000	0.0904
15,000	0.0717
20,000	0.0607
40,000	0.0409
50,000	0.0358
100,000	0.0243

(2) Maximum allowable emission rates for heat input greater than 10 million BTU per hour but less than 4000 million BTU per hour shall be determined by using the equation

$$Y = 1.02\ X^{-0.231};$$

maximum allowable emission rates for heat input equal to or greater than 4000 million BTU per hour shall be determined using the equation

$$Y = 17.0\ X^{-0.568},$$

where Y = allowable rate of emission in pounds per million BTU and X = maximum heat input in millions of BTU per hour.

(51.9) Sec. 5.6. - Refuse-burning Equipment and Incinerators.

(a) No person shall cause or allow particulate matter in the gases from any refuse-burning equipment or incinerator to be emitted into the air, or to pass a convenient measuring point near the outlet, in excess of:

(1) For refuse-burning equipment or incinerators with a capacity less than 176 pounds per hour, 0.40 pounds per hour of particulate matter; and

(2) For all other refuse-burning equipment or incinerators, not in excess of the allowable rates of emission set out in Table I of this ordinanace.

(b) No person shall cause or allow the emission of particles of unburned or partially burned refuse from any refuse-burning equipment or incinerator which are large enough to be individually seen in the air.

(50.1.1) Sec. 5.7. - Process Equipment or Process Operations. No person shall cause or allow particulate matter in gases from any process equipment or process operation (except that equipment covered by Section 5.9) to be emitted into the air, or to pass a convenient measuring point near the outlet, in excess of the rates of emission per hour calculated as set out in Table II of this ordinance.

(2.0) Sec. 5.8. - Control Equipment. No person shall cause or allow particulate matter in gases from any control equipment to be emitted into the air in quantities in excess of the limitations set forth in this ordinance for the equipment or process being controlled.

(51.4) Sec. 5.9. - Foundries.

(a) No person shall cause or allow particulate matter in gases from any existing foundry to be emitted into the air, or to pass a convenient measuring point near the outlet, in excess of the allowable rates of emission set out in Table III of this ordinance.

(b) "Existing foundries," for the limited purposes of this section, shall mean and embrace physical facilities in use on September 1, 1970.

(c) No person shall cause or allow particulate matter in gases from all other foundries to be emitted into the air, or to pass a convenient measuring point near the outlet, in excess of the allowable rates of emission set out in Table II of this ordinance.

(50.6) Sec. 5.10. - Gaseous Emissions. No person shall cause or allow to be emitted into the air, or to pass a convenient measuring point near the outlet,

(a) Sulphur dioxides, in excess of that expressed by the formula:

$$E_m = 17.0\ Q_m^{-0.33},$$

where E_m = maximum allowable sulphur dioxide in the stack gases in pounds per million BTU of heat input value of the fuel; however, in no case shall more than six (6) pounds of sulphur dioxide per million BTU of heat input be emitted in the stack gases from any source. (Q_m = total equipment capacity rating, fuel heat input in millions of BTU per hour.)

(b) Other gases. Emission standards for other gases shall be added to this ordinance by amendment as soon as they become available.

(2.0) Sec. 5.11. - Air Contaminants in a Localized Area. No person shall cause or allow to be emitted into the air, from any source, an air contaminant exposing persons in an area in which persons live:

(a) which is deemed to be a nuisance by the Health Officer; or

(b) which is deemed a nuisance by at least fifty percent (50%) or more of at least twenty-five (25) persons exposed to the air contaminant; or

(c) which is deemed a nuisance by at least seventy-five percent (75%) of those persons exposed to the air contaminant, but not less than ten (10) persons, if fewer than twenty-five (25) persons are exposed to the air contaminant.

For purposes of this section, nuisances shall have the meaning of anything which would essentially interfere with the life or property of the reasonable man.

(12.0) Sec. 5.12. - Internal Combustion Engine.

(a) The Federal Clean Air Act of 1963 (Pub. L. 88-206), as amended in 1965 (Pub. L. 89-272) and in 1967 (Pub. L. 90-148), provides for control of air pollution from new motor vehicles beginning with the 1968 model year. No person shall make or cause to be made any changes or modifications whatsoever to any control devices prescribed by said Federal Clean Air Act which increases the emission of air contaminants.

(b) No person shall operate, or cause to be operated, in the County, any stationary or moving internal combustion engine which emits air contaminants in violation of the laws of the United States of America or of the State of Indiana in effect on the effective date of this ordinance.

(c) No person shall operate, or cause to be operated, in the County, any stationary or moving internal combustion engine which emits air contaminants of such opacity as to obscure an observer's view to a degree as dark or darker than shade No. 1 on the Ringelmann Chart.

(51.13) Sec. 5.13. - Open Burning.

(a) No person shall cause or allow open burning except with the written approval of the Health Officer. The Health Officer, in determining whether to approve or disapprove open burning, shall take into consideration the following:

(1) training of local fire department personnel;

(2) training of industrial fire department personnel;

(3) controlled burning to eliminate a threat to public health and welfare;

(4) controlled burning to prevent spread of fire.

(b) Requests to the Health Officer for approval of specified open burning shall state the following information and such other information as the Health Officer may require:

(1) the name, address and telephone number of the person submitting the request and of the owner of the premises;

(2) the type of business or activity involved;

(3) the description and exact location of the burning site, equipment to be used, surrounding buildings and other improvements within three hundred (300) feet, and operating procedures;

(4) the schedule of burning operations;

(5) the type, quantity and composition of the material to be burned.

(c) The Health Officer shall not issue approval until he has received approval of such open burning from a fire department having jurisdiction in the burning site. If the request for approval of open burning discloses that the proposed burning is connected with or arises out of an agricultural act or occurrence, the Health Officer shall confer with the St. Joseph County Agricultural Extension Agent before giving his approval.

(d) The Health Officer may impose any reasonable restrictions on open burning which are reasonably required to prevent the creation of a nuisance or hazard to the public.

(e) No person shall conduct or allow to be conducted a salvage operation involving open burning, or allow his property to be used for such open burning.

(50.7) Sec. 5.14. - Nuisance Abatement.

(a) No person shall permit or cause the emission of such quantities of air contaminants from whatever source in such place or manner as to be detrimental to any person or to the public or to endanger the health, comfort or safety of any person or the public, or in such manner as to cause or have a tendency to cause injury or damage to property or business.

(b) No person shall permit or cause the handling, transporting or disposition of any substance, or material, which is likely to be scattered by air movement, or is susceptible to being wind-borne, without taking reasonable precautions or measures to minimize air contaminants.

(c) No person shall permit or cause the operation, existence or maintenance of any premises, open area, right of way, storage pile of substances or materials, vehicles, construction, alteration, demolition, or wrecking operation, or any other activity which involves any substance or material likely to be scattered by air movement, or is susceptible to being wind-borne, without taking reasonable precautions or measures to minimize air contaminants.

(d) Nothing in any section of this ordinance shall in any manner be construed as authorizing or legalizing the erection or maintenance of a nuisance.

(e) Each day wherein a violation of this section may occur shall constitute a separate offense. Acts or omissions made unlawful by this section may be ordered abated by the Health Officer. Such abatement may be in addition to the penalties provided in this ordinance.

(f) Upon the refusal of any person to obey the order of abatement of the Health Officer or the non-action of any person to the order of abatement of the Health Officer under this section, the Health Officer shall have power and authority to attempt to enforce such orders of abatement in an action in the Circuit or Superior Courts of the County at law or in equity.

(2.0) Sec. 5.15. - Exceptions. The following equipment, systems or situations are exempted from the penalties and orders provided in this article:

(a) Emissions in violation of this article due to breakdown of any process, fuel-burning, refuse-burning or control equipment which is properly registered with the Health Officer under the provision of Article III, which breakdown is

(1) reported to the Health Officer before close of business on the next succeeding working day;

(2) corrected with all practicable speed;

(3) steps are taken to reduce the frequency and degree of such breakdown; and

(4) a complete written report of the breakdown and action taken to prevent a reoccurrence is submitted to the Health Officer within ten (10) days.

(b) Cleaning of control equipment which does not require a shutdown of equipment if, but only if, the matter emitted is in excess of the limitations of this Article V for less than five (5) minutes in any continuous sixty (60) minute period.

(c) Starting a new fire, provided that such excessive emissions do not exceed ten (10) minutes on one (1) occasion per day.

(d) Equipment used for the domestic cooking of foods for human consumption.

(e) Recreational fires consuming only dried wood or charcoal.

ARTICLE VI

(15.0)
(16.0) Violation Procedures.

Sec. 6.1. - Notice of Violation and Hearing. Whenever the Health Officer has reason to believe that a violation of any provision of this ordinance has occurred, the Health Officer may cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of this ordinance alleged to be violated, and the facts alleged to constitute a violation thereof, and may include an order that necessary corrective action be taken within a reasonable time. Any such order shall become final unless, no later than fifteen (15) days after the date the notice and order are served, the person or persons, or entity, named therein request in writing a hearing before the Health Officer. Upon such request, the Health Officer shall hold a hearing. In lieu of an order, the Health Officer may require that the alleged violator or violators appear before the Health Officer for a hearing at a time and place specified in the notice and answer the charges complained of, or the Health Officer may initiate action pursuant to Article VIII of this ordinance.

Sec. 6.2. - Procedure After Hearing. If, after a hearing held pursuant to Section 6.1 of this ordinance, the Health Officer finds that a violation or violations have occurred, the Health Officer shall affirm or modify the order previously issued, or issue an appropriate order or orders for the precaution, abatement or control of the alleged violation or for the taking of such other corrective action as may be appropriate. If after hearing on an order contained in a notice, the Health Officer finds that no violations are occurring, he shall rescind the order. Any order issued as part of a notice or after hearing may prescribe the date or dates by which the violation or violations shall cease and may prescribe timetables for necessary action in preventing, abating or controlling alleged violation.

Sec. 6.3. - Voluntary Compliance. Nothing in this ordinance shall prevent the Health Officer from making efforts to obtain voluntary compliances through warning, conference or any other appropriate means.

Sec. 6.4. - Continuing Violations. A violation occurring in a calendar day shall constitute an occurrence constituting one violation. Each day a violation continues shall constitute a separate violation.

ARTICLE VII

(5.0) Variances.

Sec. 7.1. - Variance. Where emission sources in existence prior to the effective date of this ordinance do not comply with the emission limitation standards of Article V, a program to comply with such standards shall be developed and presented to the Health Officer by the owner or operator of the equipment, device or premises causing the emission.

Such program shall be submitted upon the request of and within the time limit as shall be fixed by the Health Officer, and after said program has been approved by the Health Officer, the owner and operator of such equipment, device or premises shall not be in violation of this ordinance so long as such program is followed. In evaluating such program, the Health Officer shall take into consideration the following:

(a) efficiency of any existing control equipment relative to that which would be required to meet the standards of Article V;

(b) temporary or interim control measures intended to minimize existing pollution levels;

(c) the effect the emission has on pollution generally or in the immediate vicinity of the source thereof;

(d) the degree of control in relation to other similar sources which produce pollution; and

(e) the age and prospective life of the source in question.

Reports indicating the progress of the program shall be submitted on January 15 and July 15 of each year to the Health Officer by the owner or operator of the equipment, device or premises causing the emission in question. If progress under the program is deemed by the Health Officer to be in violation of such program, the Health Officer may suspend the program and issue a violation notice and order. Such variances shall be for a period of time not in excess of three (3) years.

Sec. 7.2. - Special Variances. The Health Officer shall have the authority to grant special variances, upon written application, from registration requirements of Article III, from the inspection and testing provisions of Article IV and from the emission limitation standards of Article V. Such special variances shall be for a period of time not in excess of one (1) year. The only reason for granting such special variances is the following:

(a) the emissions occurring or proposed to occur do not endanger or tend to endanger human health or safety, and

(b) compliance with this ordinance would produce serious hardship without equal or greater benefits to the public.

ARTICLE VIII

(15.0) Penalties.

Sec. 8.1. - Penalties.

(a) Any person who violates any of the provisions of this ordinance shall upon conviction thereof, pay a fine of not less than ten dollars ($10.00) nor more than one thousand dollars ($1,000.00) for each violation, to which may be added imprisonment for a term not to exceed ninety (90) days.

(b) Each day's violation shall constitute a separate offense, and an unlawful emission from each chimney, smokestack, open fire or other point of emission shall also constitute a separate offense. A separate offense shall be committed on each day on which such person shall continue or permit to be continued any such violation after the date on which the Health Officer's order is made final in accordance with Article VI.

(c) Any abatement in accordance with Section 5.14 shall be in addition to any penalties prescribed in this Article VIII.

ARTICLE IX

(2.0) Persons Liable.

Sec. 9.1. - Persons Liable. All persons owning, operating or in charge or control of any equipment, device or premises who shall cause, suffer, allow, permit, or participate in any violation of this ordinance shall be individually and collectively liable for any penalties imposed by Article VIII. This liability shall include any person who shall refuse to comply with or who shall assist in the violation of any of the provisions of this ordinance.

ARTICLE X

(2.0) Sealing.

Sec. 10.1. - Sealing. After delivering three (3) notices of violation of this ordinance to a person within any twelve (12) month period, the Health Officer shall then notify the violator by registered mail to come before the Health Officer on a day and time certain not less than five (5) days after date of such registered mail notice for a hearing and to show cause why the premises causing such violation should not be sealed. The said notice shall be directed to the last known address of the person responsible for the last violation, or, if the person or his whereabouts is unknown, then the notice shall be posted on the premises at which the violations have occurred. If, upon consideration of the evidence, the Health Officer finds that adequate corrective measures have not been taken, he shall seal the equipment or premises until corrective measures are taken. It shall be unlawful for any person to break or cause to be broken a seal that has been duly affixed by the Health Officer or his authorized representative unless authorized in writing to do so by the Health Officer.

ARTICLE XI

(2.0) Fees.

Sec. 11.1. - Registration Fees. The Health Officer shall collect a fee of ten dollars ($10.00) for the registration of each plant site in accordance with Article III. The Health Officer shall collect a fee of five dollars ($5.00) for each change or amendment of registration in accordance with Article III; provided, however, that there shall be collected in any calendar year no more than ten dollars ($10.00) per registrant for such changes or amendments.

Sec. 11.2. - Variance. The Health Officer shall collect a fee of twenty-five dollars ($25.00) along with the application for any variance under Article VII.

Sec. 11.3. - Appeals to Appeals Board. The Health Officer shall collect a fee of twenty-five dollars ($25.00) for the filing of an appeal to the Appeals Board under Section 2.4.

Sec. 11.4. - Copies of Record of Appeals. The Health Officer shall collect a fee of one dollar ($1.00) per page for copies of the record of appeals before the Appeals Board.

Sec. 11.5. - County Health Fund. All fees collected by the Health Officer in accordance with this Article XI shall be paid semi-annually on May 31 and November 30 of each year to the County's Auditor for credit to the County's Health Fund.

ARTICLE XII

(2.0) Severability.

Sec. 12.1. - Severability. If any clause, sentence, subparagraph, section, article or part of this ordinance, or the application thereof to any person, or circumstances, shall for any reason be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this ordinance, and the application of such provision to other persons or circumstances, but shall be confined in its operation to the clause, sentence, subparagraph, paragraph, article, section or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person or circumstances involved. It is hereby declared to be the intent of this body that this ordinance would have been adopted had such invalid provisions not been included.

ARTICLE XIII

(8.0) Emergencies.

Sec. 13.1. - Any other provisions of law to the contrary notwithstanding, if the Health Officer finds that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human health or safety, the Health Officer shall order persons causing or contributing to the air pollution to reduce or discontinue immediately the emission of air contaminants. Upon issuance of any such order the Health Officer shall fix a place and time, not later than twenty-four (24) hours thereafter, for hearing to be held before the Health Officer. Not more than twenty-four (24) hours after the commencement of such hearing, and without adjournment thereof, the Health Officer shall affirm, modify or set aside the order.

Sec. 13.2. - In the absence of a generalized condition of air pollution of the type referred to in Section 13.1, but if the Health Officer finds that emissions from the operation of one or more air contaminant sources is causing imminent danger to human health or safety, he may order the person or persons responsible for the operation or operations in question to reduce or discontinue emissions immediately, without regard to the provisions of Article VI of this ordinance. In such event, the requirements for hearing and affirmance, modification or setting aside of orders set forth in Section 13.1 shall apply.

Sec. 13.3. - Nothing in this Article XIII shall be construed to limit any power which the Health Officer may have to declare an emergency and act on the basis of such declaration, if such power is conferred by statute or constitutional provision, or inheres in the office.

TABLE I

Maximum Allowable Particulate Emissions From Refuse-Burning Equipment and Incinerators

Total Refuse Charged Pounds per Hour	Allowable Emissions Pounds per Hour
175 or less	0.40
200	0.45
250	0.56
300	0.67
400	0.88
500	1.10
750	1.61
1,000	2.14
2,500	5.20
5,000	10.15
7,500	15.10
10,000	19.50
20,000	39.00
50,000	95.05
100,000	186.20

Interpolation of the data in this table for refuse-burning equipment and incinerators over 175 pounds per hour capacity shall be accomplished by use of the equation

$$E = 0.00263\ R^{0.97},$$

where E is the rate of emission in pounds per hour and R represents refuse charged in pounds per hour.

Allowable Rate of Emission Based on Process Weight Rate[1]

Process Weight Rate Lbs/Hr	Tons/Hr	Rate of Emission Lbs/Hr	Process Weight Rate Lbs/Hr	Tons/Hr	Rate of Emission Lbs/Hr
100	0.05	0.551	16,000	8.00	16.5
200	0.10	0.877	18,000	9.00	17.9
400	0.20	1.40	20,000	10.00	19.2
600	0.30	1.83	30,000	15.00	25.2
800	0.40	2.22	40,000	20.00	30.5
1,000	0.50	2.58	50,000	25.00	35.4
1,500	0.75	3.38	60,000	30.00	40.0
2,000	1.00	4.10	70,000	35.00	41.3
2,500	1.25	4.76	80,000	40.00	42.5
3,000	1.50	5.38	90,000	45.00	43.6
3,500	1.75	5.96	100,000	50.00	44.6
4,000	2.00	6.52	120,000	60.00	46.3
5,000	2.50	7.58	140,000	70.00	47.8
6,000	3.00	8.56	160,000	80.00	49.0
7,000	3.50	9.49	200,000	100.00	51.2
8,000	4.00	10.40	1,000,000	500.00	69.0
9,000	4.50	11.20	2,000,000	1,000.00	77.6
10,000	5.00	12.00	6,000,000	3,000.00	92.7
12,000	6.00	13.60			

[1] Interpolation of the data in this table for process weight rates up to 60,000 lbs/hr shall be accomplished by use of the equation

$$E = 4.10\ P^{0.67},$$

and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lbs/hr shall be accomplished by use of the equation

$$E = 55.0\ P^{0.11-40},$$

where E = rate of emission in lbs/hr and P = Process weight in tons/hr.

Allowable Emissions from Foundry Cupolas
(Existing Emission Sources)

Process Weight Rate Lbs/Hr	Allowable Emission of Particulate Matter Lbs/Hr
1,000	3.05
2,000	4.70
3,000	6.35
4,000	8.00
5,000	9.65
6,000	11.30
7,000	12.90
8,000	14.00
9,000	15.50
10,000	16.65
12,000	18.70
16,000	21.60
18,000	22.80
20,000	24.00
30,000	30.00
40,000	36.00
50,000	42.00
60,000	48.00
70,000	49.00
80,000	50.50
90,000	51.60
100,000	52.60

AIR QUALITY CONTROL ORDINANCE
FOR
VIGO COUNTY, INDIANA

ARTICLE I

(2.0) GENERAL PROVISIONS

(2.0) Section 101:

SHORT TITLE. This ordinance shall be known and cited as the "Air Quality Control Ordinance."

(2.0) Section 102:

PURPOSE. This ordinance is designed to control air pollution by establishing the Division of Air Pollution Control within the Vigo County Health Department and prescribing the duties of the Director of air pollution control, providing for investigation and abatement of violations of this ordinance, providing for the establishment and enforcement of rules and regulations, providing for an air pollution control board, providing for registration of air pollution sources, providing for inspections and tests of process, fuel-burning, refuse-burning, and control equipment, establishing limitations upon the emission of air pollutants, declaring emissions which do not meet such limitations to be unlawful, prohibiting certain acts causing air pollution or a public nuisance, providing for fines and penalties for violation of the provisions of this ordinance, and providing just and adequate means by which the provisions of this ordinance may be executed.

(1.0) Section 103:

DEFINITION OF TERMS. The following words and phrases when used in this ordinance shall for the purpose of this ordinance have the meanings respectively ascribed to them in this article, unless a different meaning is clearly indicated.

(a) "Air Contaminant" Particulate matter, dust, fumes, gas, mist, smoke or vapor, or any combination thereof, but excluding uncombined water.

(b) "Air Pollution" The presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life or to property, or which unreasonably interfere with the enjoyment of life and property.

(c) "Attorney" An attorney who is licensed to practice in Indiana.

(d) "Backyard Incineration" The burning of material originating on the premises of single or two-family residences.

(e) "Board" The Air Pollution Control Board authorized by this ordinance.

(f) "Board of Health" Vigo County Board of Health.

(g) "City" City of Terre Haute, Indiana.

(h) "Cleaning Fires" Act of removing ashes from the fuel bed or furnace.

(i) Combustible Refuse" Any combustible waste material.

(j) "Control Equipment" Any equipment which has as its primary function the reduction or elimination of the emission of air contaminants to the atmosphere.

(k) "City Council" City Council of the City of Terre Haute.

(l) "County Council" County Council of Vigo County.

(m) "County Commissioner" County Commissioner of Vigo County.

(n) "Department" The Vigo County Health Department.

(o) "Director" Director of the Division of Air Pollution Control of the Vigo County Health Department, or his authorized representative.

(p) "Division" The Division of Air Pollution Control of the Vigo County Health Department.

(q) "Domestic Heating Plant" A plant generating heat for a single family residence, or for two residences either in duplex or double house form, or for multiple-dwelling units in which such plant serves fewer than three apartments. Under this designation are also water heaters, stoves, and space heaters used in connection with the foregoing establishments, or to heat temporary buildings, such as used by the railroad and construction industries; provided however, that like equipment used in multiple-dwelling units other than herein described, or used in permanent buildings of commercial or industrial establishments, is not to be construed as included under this designation.

(r) "Emission" The act of passing into the atmosphere of an air contaminant, or the material so passed to the atmosphere.

(s) "Engineer" A Professional Engineer who is registered in Indiana.

(t) "Fuel-Burning Equipment" Any equipment, device or contrivance used for the burning of any fuel and all appurtenances thereto, including ducts, breechings, control equipment, fuel-feeding equipment, ash-removal equipment, combustion controls, stacks, chimneys, etc., used for indirect heating in which the material being heated is not contacted by and adds no substance to the products of combustion. Such equipment typically includes that used for heating water to boiling; raising steam, or superheating steam; heating air as in a warm air furnace; furnishing process heat that is conducted through process vessel walls; and furnishing process heat indirectly through its transfer by fluids.

(u) "Health Officer" The Health Officer of the Vigo County Health Department.

(v) "Incinerators" All devices intended or used for the destruction of refuse or other combustible matter by burning.

(w) "Mayor" The Mayor of the City of Terre Haute.

(x) "Objectionable Odor" An odor shall not be deemed objectionable unless at least 50% of a random selected group of not less than 20 persons from the general public living or working in the affected area and not associated with the problem, deem the odor to be objectionable.

(y) "Opacity" State of a substance which renders it partially or wholly impervious to the rays of light. Opacity as used in this ordinance refers to the obscuration of an observer's view.

(z) "Open Burning" Any fire from which the products of combustion are emitted directly into the outdoor atmosphere without passing through an effective stack.

(aa) "Particulate Matter" Any material, except water, that exists in a finely divided form as a liquid or solid.

(bb) "Person" Any individual natural person, trustee, court appointed representative, syndicate, association, partnership, firm, club, company, corporation, business trust, institution, agency, government corporation, municipal corporation, city, county, municipality, district or other political subdivision, department, bureau, agency or instrumentality of Federal, State, or local government, contractor, supplier, vendor, installer, operator, user or owner, or any officers, agents, employees, factors, or any kind of representatives of any thereof, in any capacity, acting either for himself, or any other person, under either personal appointment or pursuant to law, or other entity recognized by law as the subject of rights and duties. The masculine, feminine, singular, or plural is included in any circumstance.

(cc) "Physician" A person who has an unlimited license to practice medicine in Indiana.

(dd) "Process Equipment" Any equipment, device, or contrivance for changing any materials whatever or for storing or handling of any materials, and all appurtenances thereto, including ducts, stacks, vents, etc., the use or existence of which may cause any discharge of air contaminants into the outdoor atmosphere, but not including that equipment specifically defined as fuel-burning equipment or refuse burning equipment in this ordinance.

(ee) "Process Weight" The total weight of all materials introduced into any source operation. Solid fuels charged will be considered as part of the process weight but liquid and gaseous fuels and combustion air will not.

(ff) "Process Weight Rate"

(a) For continuous or long-run, steady-state source operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof.

(b) For a cyclical or batch source operation, the total process weight for a period that covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such a period.

(gg) "Refuse-Burning Equipment" Any incinerator, equipment, device, or contrivance used for the destruction of refuse, and/or other combustible wastes by burning, and all appurtenances thereto.

(hh) "Salvage Operations" Any operation conducted in whole or in part for the salvaging or reclaiming of any product or material.

(ii) "Seal for Sealing Equipment or Premises" A device installed by the Director so as to prevent use of the process, fuel-burning, refuse-burning, or control equipment or premises causing the violation or from which violations of this ordinance originate.

(jj) "Smoke" Small gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon, ash, and other combustible material.

(kk) "Source Operation" The last operation preceding the emission of an air contaminant, which operation:

(a) results in the separation of the air contaminant from the process materials or in the conversion of the process materials into air contaminants, and

(b) is not an air pollution abatement operation.

(11) "Stack" Duct, chimney, flue, conduit, or opening arranged for the emission into the outdoor atmosphere of air contaminants.

ARTICLE II

(2.0) ADMINISTRATIVE ORGANIZATION

(2.0) Section 201:
(15.0)

ADMINISTRATIVE ORGANIZATION AND ENFORCEMENT:

(a) This ordinance shall be effective territorially throughout Vigo County, Indiana.

(b) The administration and enforcement of this ordinance shall be conducted by the Division of Air Pollution Control, headed by a Director, under the direction of the Health Officer. The administration of the division shall be the responsibility of the Board of Health.

(c) There is hereby created in the Health Department the position of Director of Air Pollution Control. He shall be appointed by the Board of Health.

(d) The Director shall perform such duties as may be required of him by the Health Officer relative to Air Pollution Control. He shall have control of all matters and things pertaining to the work of the Division, and shall supervise the execution of all laws, rules, and regulations pertaining to air pollution as provided in this ordinance.

(e) The Director shall be an engineer or physical scientist, a graduate of a recognized university or college, qualified by technical training, and have at least two years experience in his field, or in the theory and practice of construction and operation of furnaces, combustion devices, or in the theory and practice of air pollution control and shall be qualified by education and experience to cooperate with scientific, educational and civic organizations as well as government, industry, business and private citizens interested in air pollution control.

(15.0) Section 202:

POWERS AND DUTIES OF THE DIRECTOR:

(a) Direct and administer the activities of the office and staff of the Division of Air Pollution Control.

(b) Receive and institute complaints. Investigate complaints to determine their validity. Furnish person complained against with all details, observations, and nature of the complaint, except the identity of the complainants unless so ordered by the Board or court of competent jurisdiction.

(c) Make inspections and tests of existing and newly installed air pollution control equipment. Make inspections and observations of general air pollution conditions. Record such investigations, complaints, inspections, and observations.

(d) Administer the issuance of warning notices, citations, violation notices and abatement orders required under the provisions of this ordinance.

(e) Prepare and place before the Air Pollution Control Board for their consideration proposals for additions or revisions to this ordinance, or any other regulation pertaining to air pollution abatement.

(f) Encourage voluntary cooperation by persons or affected groups in the preservation and restoration of the purity of the outdoor atmosphere, and grant a reasonable time to comply with the provisions of this ordinance.

(g) Collect and disseminate information on air pollution control.

(h) Work with planning and zoning agencies for the purpose of coordinating activities under provisions of this ordinance and foster the best possible management of the air resources.

(i) Cooperate and work with Federal, interstate, state, county, district, municipal, and other agencies concerned with air pollution, with regard to aerometric studies, abatement programs, public complaints, and other matters to the end that the air resources of Vigo County shall be best conserved and improved.

(j) Report to the Air Pollution Control Board with respect to recommendations for needed additions or revisions of this ordinance.

(2.0) Section 203:

AIR POLLUTION INSPECTORS:

(a) Air Pollution inspectors shall be employees of the Division, qualified by technical training in the theory and practice of the construction and operation of combustion and process equipment or in the theory and practice of air pollution control.

(b) No person employed in the Division shall remain directly or indirectly interested in the manufacture, lease or sale of fuel, combustion or process equipment or gas cleaning devices, or other smoke abatement or air pollution control equipment, or the apparatus or devices connected therewith or any extensions thereof.

(c) The duties of the inspectors shall be to carry out the directions of the Director in all matters relating to enforcement of this ordinance, and to aid and assist the Director in the efficient discharge of his duties. Inspectors may be authorized by the Director to act as his agents with regard to the issuance of warning notices, citations, violation notices or abatement orders.

(16.0) Section 204:

AIR POLLUTION CONTROL BOARD:

(a) An Air Pollution Control Board consisting of eleven members shall be appointed as follows:

(1) Five members shall be appointed by City Government. The Mayor shall appoint a retail businessman, a representative of organized labor, an attorney and a physician. The City Council shall appoint one member of the City Council.

(2) Six members shall be appointed by County Government. The County Commissioners shall appoint an engineer, a representative of industry, a representative from the Vigo County School Corporation, a housewife and one of the County Commissioners. The County Council shall appoint one member of the County Council.

(b) The term of appointment of members shall be three years except that of the initially appointed members. One member appointed by the Mayor, two members appointed by the County Commissioners shall initially serve for one year. Two members appointed by the Mayor, one member appointed by the County Commissioners shall serve for two years. The remaining members shall each initially serve for three years. The following elected officials: A County Commissioner, a County Councilman, and a City Councilman, shall be Board Members in the positions stipulated for Councilman and a County Commissioner only while serving in those offices.

Upon expiration of any term all succeeding terms shall be for a term of three years. Any vacancy shall be filed by the original appointing official or agency by appointment of a member having the same interest designation as the former member.

(c) The Air Pollution Control Board shall elect its own Chairman and Vice Chairman to serve for one year. A quorum shall consist of a majority of the members of the Board. It shall meet at the call of the chairman, and all members shall serve without compensation. The Director shall serve as the secretary of the Board without vote or membership.

(d) The Board shall hold at least four meetings annually and other meetings at such additional times as may be called by the chairman. The chairman shall call a special meeting upon the written request of at least three members of the Board. The Board shall keep minutes of its proceedings which shall clearly show the official actions of the Board and the vote of any member.

(e) Powers and Duties of the Board. The Board shall:

(1) Develop an effective and continuing program for the prevention, abatement and control of air contaminants within Vigo County by:

(aa) Determining need for specific controls to achieve and maintain air quality objectives.

(bb) Making and amending rules and regulations and setting standards based on the need, technical feasibility, and economic practicability.

(2) Institute investigations, consider complaints, listen to and decide on appeals, grant or deny variances, hold hearings, issue orders, and authorize and direct appropriate enforcement action, permitted by law and deemed necessary, to achieve compliance with the rules and regulations pursuant to this ordinance, taking into consideration:

(aa) The character and degree of injury or interference with comfort, safety, health or the reasonable use or enjoyment of property.

(bb) The social and economic value of the activity causing the emission and

(cc) The practicability, both scientific and economic, of reducing or eliminating the emissions resulting from such activity.

(3) Adopt, amend or repeal as necessary standards, rules and regulations under this ordinance which shall be incorporated hereunder and made a part hereof and violations of which shall be violations of this ordinance.

(4) Maintain a register of violators.

(5) List variances and compliance deadline.

(6) Exclude small sources of air contamination by establishing practical minimum quantities of each air contaminant below which neither control nor registration of the source of emission will be required.

(7) Examine and approve or disapprove the reports, plans, and specifications covered under the requirements of Section 401.

(8) Advise the Board of Health, at least annually, regarding the Air Pollution Control Program.

ARTICLE III

(2.0) PROMULGATION OF RULES AND REGULATIONS, RIGHT OF APPEAL, AND VARIANCES
(5.0)
(2.0) Section 301:

RULES AND REGULATIONS:

(1) Before any rule or regulation or standard is adopted by the Board, the Board shall cause a notice to be published in a newspaper of general circulation printed and published in Vigo County, Indiana, at least ten (10) days prior to the date set for a hearing. Such notice shall include a statement of the time and place of said hearing, a reference to the subject matter of the proposed rule(s) or regulation(s) and reference to the fact that a copy of such proposed rule(s) or regulation(s) is on file at the office of the Air Pollution Control Board where it may be examined, provided, however, that no rule(s) or regulation(s) shall be invalid because the reference to the subject matter thereof in said notice may be inadequate or insufficient. At least five (5) copies of said proposed rule(s) or regulation(s) shall be on file in the office of the Director from date of publication of said notice continuously to the time of such hearing, and any interested person shall be given an adequate opportunity to examine a copy of said proposed rule(s) or regulation(s). On date set for hearing any interested person shall be afforded an adequate opportunity to participate in the formulation of the proposed rule(s) or regulation(s) through the presentation of facts or argument or the submission of written data or facts. All relevant matters presented shall be given full consideration by the Board.

(2) In case the Board desires to repeal, rescind or amend any rule(s) or regulation(s) the same procedures shall be followed as is provided in the preceding paragraph (1) for the adoption of rule(s) or regulation(s).

(16.0) Section 302:

HEARINGS:

(1) All hearings conducted by the Air Pollution Control Board shall be open to the public. Any person may appear and testify at a hearing, either in person or by a duly authorized representative or attorney.

(2) The Air Pollution Control Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if he is absent or failing to vote, indicating such fact and shall also keep records of its hearings and other official actions.

(3) At the conclusion of such public hearing the Board may adopt such rules and regulations or may provide for continuation of such hearing as the Board may deem appropriate which further hearing may be held without requirement of publication of notice. There shall be published a notice once each week for two (2) consecutive weeks after each Board meeting at which rules or regulations were adopted that the Air Pollution Control Board has adopted certain rules and regulations, giving the number of the same and the general title thereof and stating that copies thereof are available for examination in the office of the Director and in the office of the County Clerk.

(4) After complying with requirements for publication such rules and regulations shall become effective as adopted by the Board.

(2.0) Section 303:

APPEALS:

(1) Any person may take an appeal to the Board if:

(a) They are taking exception to and are affected by any final decision, ruling, requirement, rule or order.

(b) They make a request to the Director and he fails to act upon request within ten (10) days.

(2) Such appeal shall be taken within fifteen (15) days by filing with the Director a notice of appeal directed to the Board specifying the ground thereof and the relief desired. Such an appeal shall act as a stay of the decision, ruling, requirement, rule or order in question until the Board has taken final action on the appeal. A fee of twenty-five ($25.00) shall be posted by Appellant at the time of the filing of the appeal to cover cost of the hearing and this shall be refunded only if the appeal is sustained. The Director whose action or failure to act is the subject of the appeal shall forthwith furnish to the Board his

information relating to the case. The Board shall not less than ten (10) days after the date of the appeal set a date for the hearing and shall give notice thereof by mail to the interested parties. The Board may at its discretion grant a continuance.

(3) At the hearing any party may appear in person or by agent or attorney and present evidence both written and oral pertinent to the questions and issues involved and may examine and cross-examine witnesses. The Board after hearing shall examine and affirm, modify or reverse the decision, ruling, rule, order or requirement or order action. The decision of the Board shall be binding on the Appellant unless reversed by a court of competent jurisdiction. Appeal to a court of competent jurisdiction may be instituted within thirty (30) days.

(5.0) Section 304:

VARIANCES:

(1) In the event that the Board shall find that the compliance by a particular person with the provisions of this ordinance or of rules and regulations adopted by the Board pursuant to this ordinance would result:

(a) in an arbitrary and unreasonably taking of property, or

(b) in a practical closing and elimination of any lawful business, occupation or activity, or

(c) in an undue hardship upon the person without a sufficient corresponding benefit or advantage to the public in the reduction of air contamination, the Board shall prescribe other and different requirements, not more burdensome than the requirements of this ordinance or of the general rules and regulations adopted pursuant to this ordinance, applicable to plants and equipment operated by such person; provided, however, that no such variance may permit or authorize the maintenance of a nuisance.

(2) Such variance shall be granted only after a public hearing, notice of which shall be published in the same manner as notice shall be given before promulgation by the Board of any rules or regulations, Section 301 of this Article. Any variance so given shall be subject to such limitations as to time, and to such other conditions or limitations, as the Board may prescribe at the time of giving such variance. Any variance so given may be revoked or modified by the Board by written order, after a public hearing, notice of which shall be published in the same manner as notice shall be given before promulgation by the Board of any rules or regulations, held not more than ten (10) days after written notice of said hearing and its purpose shall have been served on the

person who will be subjected to greater restrictions if such order is revoked or modified as proposed, and upon all other persons who appear before the Board at the time of granting of such variance or who have filed with the Board a written request for such notification.

ARTICLE IV

(2.0) REGULATIONS

(13.0) Section 401:

REPORTS, PLANS AND SPECIFICATIONS:

Any person planning to construct a new installation which will or might reasonably be expected to become a source of air pollution or make modification to an existing installation which will or might reasonably be expected to increase the amount or change the effect or the character of air contaminants discharged, so that such installation may be expected to become a source of air pollution, or planning to install an air cleaning device shall submit a report, plans, and specifications for approval prior to initiation of construction. The following listed installations are exempted from the submission of reports, plans and specifications:

(a) Comfort heating equipment, boilers, water heaters, air heaters, and steam generators with a rated capacity of less than one million BTU per hour.

(b) Fuel-burning equipment and incinerators used singly or jointly by occupants of dwellings containing four or fewer apartment units.

(c) Comfort ventilating systems.

(d) Unit space heaters.

(e) Vacuum-cleaning systems used exclusively for commercial or residential housekeeping.

(f) Laboratory hoods which exhaust to outer air.

(g) Exhaust systems for controlling steam and heat.

Reports, plans and specifications filed for approval shall include the following:

(a) Expected composition of effluent stream both before and after any cleaning device, including emission rate, concentration, volume and temperature.

(b) Expected physical characteristics of particulates.

(c) Size, type and performance characteristics of air cleaning devices.

(d) The location and elevation of the emission point and other factors relating to dispersion and diffusion of the air contaminant in the outer air, and the relation of the emission to nearby structures, window openings, and other information necessary to appraise the possible effects of the effluent.

(e) When necessary to ascertain compliance, the location of planned sampling points and the tests to be made of the completed installation by the owner.

(f) Any other reasonable and pertinent information that may be required by the Board.

Any information relating to secret processes, methods of manufacture, or production submitted in connection with reports, plans and specifications or testing shall be protected communications and shall not be released or made public without the express permission of the person supplying the information. The Board at its discretion, may accept in lieu of detailed plans and specifications a certificate that the proposed air pollution control device will operate in accordance with the emission limitations of this ordinance.

(13.0) Section 402:

EMISSION INFORMATION:

The Director may require written information regarding points of emission of air contaminants, whether by stack, duct, flue, equipment, or by any other means when necessary for the purposes of this ordinance. A period of sixty days shall be allowed for the filing of such information. However, in cases of emergency, the Director may designate any lesser time which he belives to be justified.

(13.0) Section 403:

CONTENT OF EMISSION INFORMATION:

The written information regarding points of emission may include the following information (approximate or estimated values will normally be acceptable): the location of the source of emission, size of outlets, height of outlets, rate of emission, composition of emission, temperature of effluent or emission, nature of the equipment creating the emissions, and any other pertinent information specified by the Director.

(51.13) Section 404:

OPEN BURNING:

No person shall conduct a salvage operation by open burning except on written approval of the Director. The Director may seek advice and guidance of other local authorities before issuing such approval. No person shall burn any combustible refuse in any open fire except as follows:

(a) Camp fires and fires used solely for recreation purposes where such fires are properly controlled by a responsible person.

(b) Backyard incineration.

(c) Burning, on a farm, of rubbish derived from an agricultural operation, when the prevailing winds, at the time of burning, are away from populated areas and no nuisance is created.

(d) Open burning, in remote areas, of highly explosive or other dangerous materials for which there is no other known method of disposal or for special purposes when approved by the Director. The exceptions apply in all areas where they are not prohibited by local ordinances or by other officials having jurisdiction, such as local fire officials.

(50.1.2) Section 405:

SMOKE AND OTHER VISIBLE EMISSIONS:

The Ringelmann Chart shall be used for grading the light obscuring power of smoke. No person shall operate any combustion installation so as to produce, cause, suffer or allow smoke to be emitted, the appearance, density or shade of which is darker than No. 2 of the Ringelmann Chart. When cleaning a fire or blowing tubes, smoke which is not darker than a No. 3 Ringelmann Chart may be emitted for a period or periods not exceeding five minutes in any 60 minute period, such emissions shall not be permitted on more than six occasions during any 24 hour period. When building a new fire, smoke not darker than a No. 3 Ringelmann Chart may be emitted not to exceed ten minutes on one occasion per day. The Board, at its discretion, may accept an extension of the time period and number of such time periods per day. When a breakdown of equipment or a change of fuel results in smoke darker than a No. 2 of the Ringelmann Chart, the Director shall be notified as soon as possible. The opacity of any color equivalent to the Ringelmann Chart may be used as prima-facie evidence in determining process emissions but may be refuted by approved stack emission tests or other evidence acceptable to the Board.

(51.5) Section 406:

COMBUSTION FOR INDIRECT HEATING:

Emission of particulate matter from the combustion of fuel for indirect heating shall be limited by ASME Standard No. APS-1, dated June 15, 1966, "Recommended Guide for the Control of Dust Emission-Combustion for Indirect Heat Exchangers." Two copies of ASME Standard No. APS-1 shall be on file with the County Clerk. For purposes of this Regulation, the maximum allowable emission shall be calculated using equation (15) in this Standard with a maximum downwind ground level dust concentration of 50 micrograms per cubic meter for a 30 to 60 minute time period. Figure 2 in the Standard may be used to estimate allowable emissions. However, irrespective of stack height, the maximum allowable emission for any stack shall be 0.6 pounds for new equipment and 0.8 pounds for existing equipment of particulates per million BTU input.

(50.1.1) Section 407:

PROCESS OPERATIONS:

No person shall operate any process so as to produce, cause, suffer or allow particulate matter to be emitted in excess of the amount shown in Table I. Exceptions are combustion for indirect heating, incinerators, open burning, existing cement kilns, existing catalytic cracking units, and existing foundries. When the process weight exceeds 200 tons/hour, the maximum allowable emission may exceed that shown in Table I, provided the concentration of particulate matter in the discharge gases to the atmosphere is less than 0.10 pounds per 1,000 pounds of gases at standard conditions.

Existing cement manufacturing operations equipped with electrostatic precipitators, bag filters, or equivalent gas-cleaning devices shall be allowed to discharge concentrations of particulate matter in accordance with $E = 8.6\ p^{0.67}$ below 30 tons per hour of process weight and $E = 15.0\ p^{0.5}$ over 30 tons per hour of process weight.

Existing petroleum catalytic cracking units equipped with cyclone separators, electrostatic precipitators, or other gas-cleaning systems shall recover 99.97% or more of the circulating catalyst or total gas-borne particulate.

(51.4) Section 408:

EXISTING FOUNDRIES:

No person shall operate any existing foundry so as to produce, cause, suffer or allow particulate matter to be emitted in excess of the amount shown on Table II. All new foundries shall not exceed the requirements of Section 407.

TABLE I

Allowable Rate of Emission Based on Process Weight Rate[1]

Process Weight Rate		Rate of Emission	Process Weight Rate		Rate of Emission
Lbs/Hr	Tons/Hr	Lbs/Hr	Lbs/Hr	Tons/Hr	Lbs/Hr
100	0.05	0.551	16,000	8.00	16.5
200	0.10	0.877	18,000	9.00	17.9
400	0.20	1.40	20,000	10.00	19.2
600	0.30	1.83	30,000	15.00	25.2
800	0.40	2.22	40,000	20.00	30.5
1,000	0.50	2.58	50,000	25.00	35.4
1,500	0.75	3.38	60,000	30.00	40.0
2,000	1.00	4.10	70,000	35.00	41.3
2,500	1.25	4.76	80,000	40.00	42.5
3,000	1.50	5.38	90,000	45.00	43.6
3,500	1.75	5.96	100,000	50.00	44.6
4,000	2.00	6.52	120,000	60.00	46.3
5,000	2.50	7.58	140,000	70.00	47.8
6,000	3.00	8.56	160,000	80.00	49.0
7,000	3.50	9.49	200,000	100.00	51.2
8,000	4.00	10.40	1,000,000	500.00	69.0
9,000	4.50	11.20	2,000,000	1,000.00	77.6
10,000	5.00	12.00	6,000,000	3,000.00	92.7
12,000	6.00	13.60			

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[1] Interpolation of the data in this table for process weight rates up to 60,000 lbs/hr shall be accomplished by use of the equation $E = 4.10\ P^{0.67}$, and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lbs/hr shall be accomplished by use of the equation $E = 55.0\ P^{0.11} - 40$, where E = rate of emission in lbs/hr and P = process weight rate in tons/hr.

TABLE II

Allowable Emissions from Foundry Cupolas (Existing Emission Sources)

Process Weight Rate Lbs/Hr	Allowable Emission of Particulate Matter Lbs/Hr
1,000	3.05
2,000	4.70
3,000	6.35
4,000	8.00
5,000	9.65
6,000	11.30
7,000	12.90
8,000	14.00
9,000	15.50
10,000	16.65
12,000	18.70
16,000	21.60
18,000	22.80
20,000	24.00
30,000	30.00
40,000	36.00
50,000	42.00
60,000	48.00
70,000	49.00
80,000	50.50
90,000	51.60
100,000	52.60

(51.9) Section 409:

INCINERATORS:

No person shall cause or permit the emission of particulate matter from the stack or chimney of any incinerator in excess of the following:

(a) Incinerators with a maximum refuse-burning capacity of 1,000 or more pounds per hour, 0.4 pounds of particulate matter per 1,000 pounds of dry exhaust gas at standard conditions corrected to 50% excess air.

(b) All other incinerators, 0.7 pounds of particulate matter per 1,000 pounds of dry gas at standard conditions corrected to 50% excess air.

(c) No incinerator shall emit or produce smoke in excess of the requirements of Section 405. All new incinerators shall be multiple chamber or equivalent incinerators.

(50.2) Section 410:

SULFUR OXIDES:

No person shall cause, let, permit, suffer or allow any emission of sulfur oxides which results in ground level concentrations of sulfur oxides at any given point in excess of 0.42 ppm (volume) in the period of any hour and average exposure shall not exceed 0.1 ppm (volume) of sulfur oxide in any 24 hour period.

(12.0) Section 411:

MOTOR VEHICLES:

No person shall operate, or cause to be operated, upon any street, highway, public place or private premises within Vigo County, any engines of any motor vehicle, while stationary or moving, which emits from any source of emission whatsoever any air contaminant for a period or periods aggregating more than five minutes in any one hour which is:

(a) As dark or darker than that which is designated as No. 2 on the Ringelmann Chart, as published by the United States Bureau of Mines, or

(b) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subsection (a) of this section.

(50.1) Section 412:
(50.7)

NUISANCE AND AIRBORNE PARTICULATE:

(a) It shall constitute a nuisance for any person to permit or cause the preventable emission of such quantities of air contaminants from whatever source in such place or manner as to endanger the health or safety of any person or the public, or in such manner as to cause or have a tendency to cause injury or damage to property or business. This provision shall specifically include the incineration of garbage, rubbish, trash, or any other material which produces smoke or noxious or offensive odors in such quantity or of such duration as to interfere with the comfortable enjoyment of life or property or the conduct of business.

(b) It shall be unlawful for any person to cause or permit the handling, transporting, or disposition of any substance or material which is likely to be scattered by the wind, or is susceptible to being windborne, without taking reasonable precautions or measures to minimize atmospheric pollution. It shall be unlawful for any person to operate or maintain or cause to be operated or maintained, any premises, open area, right of way, storage pile of materials, or vehicles, or construction, alteration, demolition, or wrecking operation, or any other enterprise, which involves any material or substance likely to be scattered by the wind, or susceptible to being windborne, without taking reasonable precautions or measures to minimize atmospheric pollution. No person shall maintain or conduct, or cause to be maintained or conducted, any parking lot, or automobile and/or truck sales lot, or use any roadway unless such lot or roadway is maintained in such manner as to minimize atmospheric pollution.

(c) Nothing in any section of this ordinance relating to regulation of emission of air contaminants shall in any manner be construed as authorizing or legalizing the erection or maintenance of a nuisance.

(50.6) Section 413:

EMISSION OF ODORS:

No person shall cause, suffer, allow or permit the emission of gaseous materials in such quantities to cause an "objectionable odor."

(8.0) Section 414:

EMERGENCY PROCEDURE:

Any other provision of this ordinance to the contrary notwithstanding, if the Director finds that emission from the operation of one or more air contaminant sources is causing imminent danger to human health or safety, he may order the person or persons responsible for the operation or operations in question to reduce or discontinue emissions immediately and such an order shall fix a place and time not later than twenty-four hours thereafter for a hearing to be held before the Board. No more than twenty-four hours after the commencement of such a hearing, and without adjournment thereof, the Board shall affirm, modify or set aside the order of the Director. Nothing in this article shall be construed to limit any power which the Health Officer or any other officer may have to declare an emergency and act on the basis of such declaration if such power is conferred by statute or constitutional provision, or inheres in the office.

(7.0) Section 415:

BREAKDOWN OF EQUIPMENT:

Emissions exceeding any of the limits established in Article IV as a direct result of upset conditions in or breakdown of any process, fuel burning, refuse burning or control equipment or related operating equipment beyond the control of the person owning or operating such equipment shall not be deemed to be in violation of Article IV provided that the owner or operator advises the Director of the circumstances as soon as possible. A corrective program, mutually acceptable to the Director and to the owner or operator, shall be outlined as soon as time permits.

(2.0) Section 416:

CIRCUMVENTION:

No person shall build, erect, install or use any article, machine, equipment or other contrivance, the sole purpose of which is to conceal an emission; however, the use of chemical masking agents shall be permissible to control objectionable odors other than those which are harmful to health.

ARTICLE V

(9.0) SAMPLING AND TESTING

(15.0) Section 501:

RIGHT OF ENTRY FOR INSPECTION:

Any person who in any manner hinders, obstructs, delays, resists, prevents, or in any manner interferes or attempts to interfere with the Director, inspector, or police officers in the performance of their duties, or by refusing entrance at reasonable hours to any premises in which the provisions hereof are being violated shall be subject to the fines and penalties hereinafter provided.

(9.0) Section 502:
(15.0)

AUTHORITY TO CONDUCT TESTS:

The Director is hereby authorized to conduct any test or tests of any facility the operation of which, in his opinion, may result in emissions in excess of the limitations in this ordinance or when, in his judgment, there is evidence that emissions from any such facility are exceeding any emission limitation prescribed in this ordinance. Upon notification by the Director that emission tests are considered necessary, a person may elect to conduct such test himself. In this event, the person shall notify the Director of this decision and of the time and date of such testing. All tests so conducted shall be in a manner mutually acceptable to the Director, and owner or operator, and a complete detailed test report of such tests shall be submitted to the Director. The Director may stipulate that a representative of his office be present during the conduct of such tests and may stipulate a reasonable time limit for the completion of such tests. Nothing in this section concerning tests conducted by and paid for by any person or his authorized agent shall be deemed to abridge the rights of the Director or his representatives to conduct separate or additional tests of any facility on behalf of the County at a reasonable time and at the County's expense except as provided in Section 504 below.

(9.0) Section 503:

TEST FACILITIES AND ACCESS:

It shall be the responsibility of the owner or operator of the operation tested to provide, at his expense, reasonable and necessary openings in the system or stack, and safe and easy access thereto, to permit technically acceptable samples and measurements to be taken. All new sources of air contaminants erected after the effective date of this ordinance may be required by the Director to provide adequate openings in the system or stack, and safe and easy access thereto, to permit technically acceptable measurements and samples to be taken. If a person refuses to supply test openings, access scaffolding, and other pertinent facilities requested for the purpose of conducting technically acceptable emission tests by the Director, the Director shall notify such person to show cause before the Board on a day certain, not less than thirty nor more than sixty days from the date of notice, why the equipment should not be sealed.

(9.0) Section 504:

TEST COSTS:

If emission tests conducted as a result of procedures outlined in Section 502 substantiate the abatement order the person or persons liable for the violation shall be responsible for paying all attendant costs for conducting said tests. If said tests do not substantiate the abatement order issued, then the County shall be responsible for paying all attendant costs for conducting said tests. (This latter condition shall not obviate the owner's or operator's responsibilities set forth in Section 503.)

ARTICLE VI

(2.0) EXISTING CONDITIONS

(2.0) Section 601:

EMISSION SOURCES:

Where emission sources in existence prior to the adoption of this ordinance do not meet the emission limitations noted in Article IV above, then a program and timetables to comply shall be submitted to the Board by the owner of the equipment causing the emission. This program shall be submitted upon the request of and within such times as shall be fixed by the Director and/or Board and after said program has been approved by the Board, the owner of the equipment causing the emission shall not be in violation of this ordinance so long as said program is observed. In evaluating such a program of improvement, the Board shall take into consideration the following factors:

(a) Action taken to control atmospheric pollution within emission limitations in effect prior to this ordinance.

(b) Efficiency of any existing control equipment relative to that which would be required to meet emission limitations of this ordinance.

(c) Temporary interim control measures intended to minimize existing pollution levels.

(d) The effect the source of emission has on ambient air quality generally or in the immediate vicinity of the source.

(e) The degree of control in relation to other similar facilities which produce air pollution.

(f) The age and prospective life of the facility in question.

Reports consisting of information required by the Board indicating the progress of these programs shall be submitted annually to the Board by the owner of the equipment causing the emission in question. If progress of the program is deemed insufficient by the Board, they may suspend the program and instruct the Director to issue a violation notice.

(51.2) Section 602:

BY-PRODUCT COKE PLANTS:

(a) The provisions of Article IV shall apply to by-product coke ovens except as follows:

  (1) When charging a battery of coke ovens smoke shall be permitted from such battery of an appearance, density, or shade darker than No. 2 of the Ringelmann Chart for a period not more than ten minutes in any sixty minute period.

  (2) When pushing coke from a battery of coke ovens, smoke shall be permitted from such battery of an appearance, density, or shade darker than No. 2 of the Ringelmann Chart for a period not more than ten minutes in any sixty minute period.

(b) Coke oven doors, frames, and ovens shall always be so maintained that smoke or fumes darker than No. 2 of the Ringelmann Chart shall not escape to the atmosphere.

(c) An annual report on progress of research and progress of emissions from coke by-product plants shall be submitted to the Board and as soon as methods of control are practical, in the opinion of the Board, such controls shall be installed by the plants.

(d) When controls are available for by-product coke plants and meet the desires of paragraph c of this section, the limits imposed in paragraph a-1 and a-2 of the section will be voided.

ARTICLE VII

(2.0) LIABILITY

(2.0) Section 701:

PERSONS LIABLE:

All persons owning, operating, or in charge or control of any equipment or premises who shall cause, suffer, allow, permit, or participate in any violation of this ordinance shall be individually and collectively liable for any penalties imposed by this ordinance. This liability shall include any person who shall refuse to comply with or who shall assist in the violation of any of the provisions of this ordinance.

ARTICLE VIII

(15.0) PROCEDURES FOR VIOLATIONS

(15.0) Section 801:

WARNING NOTICE

If the Director has reason to believe that an emission from any source violates any provision of this ordinance, he may issue a warning notice to the owner or operator of the source in question. The notice shall describe the alleged violation and, if appropriate, shall suggest what should be done to comply. There shall be no penalty associated with a warning notice. The Director shall provide for follow-up inspections of each source for which a warning notice has been issued to determine whether compliance has been achieved or if additional procedures of this article should be envoked.

(16.0) Section 802:

VOLUNTARY HEARING

The Director shall be permitted to arrange voluntary hearings with suspected or potential violators for the purpose of promoting compliance with the provisions of this ordinance. There shall be no penalty associated with the failure to attend a voluntary hearing.

(15.0) Section 803:

CITATION

If evidence of a violation of Sections 411 or 412 of this ordinance is brought to the attention of the Director, or if any member of the Department observes a violation, the Director may issue a citation to the owner or operator of the source in question. The citation shall describe the violation, state the penalty established according to Article IX, and list the appellate procedures as defined by this ordinance. A citation may be issued without the prior issuance of a warning notice.

(15.0) Section 804:

VIOLATION NOTICE

If the Director has evidence which indicates that an emission from any source violates any provision of this ordinance, he may issue to the owner violates any provision of this ordinance, he may issue to the owner or operator of the source in question a violation notice. Any person who is issued a violation notice may, within fifteen days from the date of receipt of said notice, request a hearing before the Board with respect to such notice for the purpose of indicating reasons why he does not believe he was in violation. The Board shall, within fifteen days after the hearing, affirm, modify or withdraw the violation notice. The person receiving said notice shall be informed, in writing, of the decision to affirm, modify, or withdraw. If a hearing is not requested within the time herein set out, or if the Board's decision is to affirm the violation notice, the violation notice shall be considered still in force and affirmed, except that the period of compliance shall be extended for the period expended in the application for and prosecution of the hearing before the Board.

(2.0) Section 805:

ABATEMENT ORDER

If the Director has evidence which indicates that an emission from any source continues to violate any provision of this ordinance, he may issue to the owner or operator of the source in question an abatement order. Any person who is issued an abatement order may, within fifteen days from the date of receipt of said notice, request a hearing before the Board with respect to such notice for the purpose of indicating reasons why he does not believe he was in violation. The Board shall, within fifteen days after the hearing, affirm, modify or withdraw the abatement order. The person receiving said notice shall be informed, in writing, of the decision to affirm, modify, or withdraw. If a hearing is not requested within the time herein set out, or if the Board's decision is to affirm the abatement order, the abatement order shall be considered still in force and affirmed, except that the period of compliance shall be extended for the period expended in the application for and prosecution of the hearing before the Board. An abatement order shall not be issued unless a warning notice has previously been issued.

(2.0) Section 806:

SEALING

After the expiration of the final date set for compliance in an abatement order and if the Director should determine that the owner or operator of the equipment which is subject of the abatement order has not taken any steps to comply therewith, he may notify such owner or operator to show cause before the Board within 10 days why the equipment which is the subject of the abatement order shall not be sealed. The notice shall be delivered or sent, by registered mail, to the last known address of the person to be notified or if the person or his whereabouts is unknown, then the notice shall be posted on or near the premises at which the equipment which is the subject of the abatement order is located. Upon order of the Board and after a 72 hour waiting period, the Director shall seal the equipment concerned until such time as measures satisfactory to the Board have been taken to comply with the original abatement order. It shall be unlawful for any person to break a seal that has been duly affixed by the Director or his authorized representative unless authorized in writing by the Director or the Board to do so.

ARTICLE IX

(15.0) PENALTIES FOR VIOLATIONS

(15.0) Section 901:

SEPARATE OFFENSE

Each day's violation of any provision of this ordinance shall constitute a separate offense; and an unlawful emission from each chimney, stack, open fire, or other source shall also constitute a separate offense. A separate and distinct offense shall be regarded as committed each day during which a person shall continue or permit any violation to exist after notification thereof by the Director.

(15.0) Section 902:

PENALTIES

a) Any person who shall receive a citation as defined by Section 803 of this ordinance may, within 72 hours after receiving such citation, report to the Vigo County Health Department, Division of Air Pollution Control, and pay the sum of $10.00 as penalty for and in full satisfaction of the violation for which such citation was issued. The failure of any person to make such payment within 72 hours shall render such person subject to penalties as provided in Section 902b of this ordinance. b) Unless another penalth is expressly provided herein, any person who shall violate any provision of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not less than $10.00 nor more than $500.00 for each violation, to which may be added imprisonment for any determinate period not to exceed 180 days. Each day the Court may find the defendant in violation of this ordinance shall be a separate offense. The Division of Air Pollution Control of the Vigo County Health Department shall be represented by the county attorney or a special attorney employed by the County and local health board.

ARTICLE X

(2.0) SEVERABILITY

Section 1001:

SEVERABILITY

If any clause, sentence, paragraph or part of this ordinance, or the application thereof to any person, firm, corporation or circumstances, shall for any reason, be adjudged by a Court of competent jurisdiction to be inconstitutional or invalid, said judgement shall not affect, impair or invalidate the remainder of this ordinance, and the application of such provision to other persons, firms, corporations, or circumstances, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person, firm, corporation or circumstances involved.

ARTICLE XI

(2.0) REPEAL CLAUSE

Section 1101:

REPEAL CLAUSE

All laws and parts of laws heretofore passed by the County Commissioners of Vigo County in conflict herewith, dealing with the problem of air pollution are hereby repealed.

ARTICLE XII

(2.0) ADOPTION

Section 1201:

ADOPTION

This ordinance shall be in full force and effect from and after its passage, approval and adoption by the Board of Commissioners of Vigo County, State of Indiana.

Passed, approved and adopted by the Board of Commissioners of Vigo County, State of Indiana, on this 26th day of MARCH, 1970.

CITY OF ANDERSON

AIR POLLUTION CONTROL REGULATIONS

ARTICLE I

(2.0) GENERAL PROVISIONS

(2.0) Section 1.1:

SHORT TITLE. This Ordinance shall be known and cited as the "Air Quality Control Ordinance."

(2.0) Section 1.2:

PURPOSE. The purpose of this Ordinance is to determine control and regulation of activities which are causing or may cause pollution or contamination of the air, and as required for the protection and preservation of public health, safety, and welfare. It is the intent and purpose of this Ordinance to provide and maintain such standards of air quality as will assure that the ambient air of the City will be adequately pure and free from smoke, contaminants, or synergistic agents injurious to human, plant, and animal life or property, or which interfere with the comfortable enjoyment of life or property, or the conduct of business, and to that end to require the use of all available, practicable and reasonable methods to prevent and control air pollution in the City.

(1.0) Section 1.3:

DEFINITION OF TERMS. The following words and phrases when used in this Ordinance shall for the purpose of this Ordinance have the meaning respectively ascribed to them in this article, unless a different meaning is clearly indicated.

1. "Air Contaminant." Any coarse and fine solid particles, liquid particles, vapors, fumes, odors, or gases which are discharged into the outdoor atmosphere, but excluding uncombined water.

2. "Air Pollution." The discharge of air contaminants into the outdoor atmosphere in amounts and at rates in excess of the allowable as legally established by this ordinance, or in sufficient amount to create a nuisance and/or health hazard in the community.

3. "Air Sampling." Ambient air sampling to determine the effects of the program of air pollution control.

4. "Odor." An odor shall not be deemed objectionable unless at least fifty percent of a random selected group, of not less than twenty persons from the general public living or working in the affected area and not associated with the problem deem the odor to be objectionable.

5. "Ashes." Includes cinders, fly ash or any other solid material resulting from combustion including burnable particles.

6. "ASME." The American Society of Mechanical Engineers.

7. "ASTM." The American Society for Testing and Materials.

8. "Emission." The act of passing an air contaminant into the atmosphere, or the material passed to the atmosphere.

9. "Incinerators." All devices intended or used for the destruction of refuse or other combustible refuse by burning.

10. "Opacity." The light-obscuring power of smoke that results in a visible plume in the air.

11. "Particulate Matter." Any material, except water, that exists in a finely divided form as a liquid or solid capable of being suspended in the atmosphere for a period of time.

12. "Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity of any other legal entity, or their legal representatives, agents, or assigns.

13. "Smoke." Small gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon, ash, and other combustible material, that forms a visible plume in the air.

ARTICLE II

(2.0) Section 2.1:

AREA COVERED

A. The City of Anderson and that area within four miles from the corporate boundaries of the City shall constitute the jurisdictional area of this ordinance.

B. The Clean Air Council may appoint and prescribe the duties and fix the compensation of a Director pursuant to Section 2.4. The compensation of the Director and all other employees, however, shall be in conformity to and in compliance with salaries and compensation there-to-fore fixed by the Common Council. The Clean Air Council may make contracts for special or temporary services and any professional counsel.

C. The Clean Air Council shall be the sole authority in the employing of a Director pursuant to Section 2.4 and shall have the right to terminate a Directors term of office by the giving of a 60-day notice at the required April, July, January, October, or special meeting of the Clean Air Council.

D. There is hereby created the Department of Air Pollution Control which shall be organized by the Director who shall have control of all matters and things pertaining to the work of the Department.

E. The administration and enforcement of this ordinance shall be the sole responsibility of the Director, except that he shall not have the right to decide appeals from any of his decisions, rulings, determinations or orders, or to grant variances from regulations established by Anderson City Ordinances pursuant to Section 2.5.

F. The Director shall be qualified by technical training and have at least three years experience in the theory and practice of construction and operation of furnaces and combustion devices or in the theory and practice of air quality control and shall be qualified by education and experience to co-operate with scientific, educational and civic organizations. Applicants who are graduate engineers, registered in the State of Indiana, shall be given preference for the position of Director, other qualifications being considered equal.

(15.0) Section 2.2:

POWERS AND DUTIES OF THE DIRECTOR

A. He shall be the immediate authority responsible for the establishing of a functioning program of air pollution control in accordance with the intent and provisions of this ordinance.

B. The Director shall receive and act on all complaints against all persons for violating any provision of this ordinance except as limited by Section 2.5.

C. Action on complaints against persons for violating any provision of this ordinance shall include the requirement that the accused person shall conduct such tests as are necessary, in the opinion of the Director, to determine the kind and/or amount of air contaminant emitted from the equipment or control apparatus. Such tests shall be made at the expense of the accused person, if found in violation; if tests show person is not in violation, expense of testing shall be borne by APC.

D. He shall institute necessary legal proceedings against the person whose process equipment fuel-burning or refuse-burning equipment or control apparatus operation fails to comply with state regulations or the ordinances of the City of Anderson as regards allowable emissions into the outdoor atmosphere.

E. He must examine and approve or disapprove the plans for fuel and refuse-burning equipment, process equipment and control apparatus to be installed, constructed, reconstructed, or altered or added to when such construction or replacement may change the quality, nature, or quantity of air contaminants.

F. The applicant for a certificate to operate, or any renewal thereof, shall be required to conduct such tests as are necessary in the opinion of the Director to determine the kind and/or amount of air contaminant emitted from the equipment or control apparatus. Such tests shall be at the expense of the applicant and shall be conducted in a manner approved by the Director.

G. He shall be required to investigate complaints of ambient air pollution and record such investigations, complaints, inspections, and observations and/or test results.

H. He shall approve or reject applications for, and administer the issuance of, Certificates to Operate, Permits to install, construct, or alter, as required under the provisions of this ordinance.

(9.0) Section 2.3:

AIR MONITORING TECHNICIANS

A. A Clean Air Council shall be appointed by the Mayor as provided for hereinafter. This Clean Air Council shall study the problem of air pollution prevention and control within the City and shall make recommendations to the Common Council concerning needed standards and regulations consistent with the general intent and purposes of this Ordinance. This Clean Air Council shall establish and operate a Department of Air Pollution Control by employing a Director of the Department of Air Pollution Control, pursuant to Section 2.1.

B. The Clean Air Council shall consist of nine (9) members. One member shall be a member of the Common Council and shall be appointed by the President, subject to the approval of the Council. The remaining members shall be appointed by the Mayor with the approval of the Common Council. Not more than two (2) members of said Council shall hold any public office, elected or appointed. Said Council shall include one each of the following: a qualified graduate engineer registered in the State of Indiana, a physician who holds an unlimited license to practice medicine in the State of Indiana, a qualified representative of agriculture, a qualified practicing attorney licensed to practice law in Indiana, a qualified representative of labor unions, a qualified representative of industry, a qualified graduate chemist, and a qualified representative of the general public. The terms of office shall be four (4) years except that the terms of those first appointed shall expire as follows:

three at end of two years from date of this Ordinance

three at end of three years from date of this Ordinance

three at end of four years from date of this Ordinance

as designated by the Mayor at the time of appointment. The terms of all members shall continue until their respective successors have been duly appointed and qualified. If a vacancy occurs in the membership, the Mayor, or in the case of the representative from the Common Council, the Common Council President, as previously stated, shall appoint a member for the remaining portion of the unexpired term created by the vacancy. In like manner, they may remove any member for cause.

C. The Clean Air Council shall elect its own chairman on a yearly basis. A quorum shall consist of a minimum of five (5) members of the Clean Air Council, including the chairman. It shall meet quarterly (January, April, July, October), and for special meetings, at the call of the chairman, and all members shall serve without compensation. The Director of the Department of Air Pollution Control shall be an ex-officio member of the Clean Air Council without the right to vote and shall act as secretary thereof.

(16.0) Section 2.5:

APPEALS BOARD

A. An Air Pollution Appeals Board is hereby created and shall consist of three (3) members from the Clean Air Council as follows:

The engineer

The physician

The attorney

who shall serve on the Appeals Board during their terms of service on the Clean Air Council, one of whom shall be designated by the Mayor as chairman and two (2) of whom shall constitute a quorum.

B. The Appeals Board shall convene monthly. The Appeal Board shall have the power to grant variances from regulations established by the Anderson City Ordinances and to decide appeals from any decision, ruling, determination, or order made by the Director of the Department of Pollution Control, but not to decide in conflict with existing state laws. All hearings conducted by the Appeals Board shall be open to the public.

C. The Appeals Board shall keep records of its hearings and of other actions and shall provide a copy of these records to each member of the Clean Air Council immediately following each meeting of the Appeals Board. A copy of these records shall also be filed with the Director of the Department of Air Pollution Control and shall be a public record.

D. A majority of the Appeals Board is hereby vested with the following jurisdiction and authority:

(1) To decide appeals from any decision, ruling, regulation, determination, or order made by the Director under this ordinance.

(2) To decide all matters referred to it or upon which it may be required to act under the provisions of this ordinance.

E. Members of the Appeals Board shall be paid a per diem of Fifteen dollars ($15.00) for each and every day, or part of a day, in actual attendance at any meeting or hearing of the Appeals Board which per diem shall be valid claim against the City of Anderson, Department of Air Pollution Control, to be paid from the budget appropriation of said Department.

(5.0) Section 2.6:

VARIANCE

In the event that the Appeals Board shall find that the compliance by a particular person with the provisions of this Ordinance or of rules and regulations adopted by the Council pursuant to this Ordinance would result:

(1) in a arbitrary and unreasonable taking of property, or

(2) in a practical closing and elimination of any lawful business, occupation or activity, or

(3) in an undue hardship upon any person

without a sufficient corresponding benefit or advantage to the public in the reduction of air contamination, the Board shall prescribe other and different requirements, not more burdensome than the requirements of this Ordinance or of the general rules and regulations adopted pursuant to this Ordinance, applicable to plants and equipment operated by such person; provided, however, that no such variance may permit or authorize the maintenance of a nuisance.

Such variance shall be granted only after a public hearing, notice of which shall be published in the same manner as notice shall be given before promulgation by the Council of any rules and regulations. In addition, the person requesting such variance shall--not less than fifteen (15) days prior to the date of such hearing--either deliver personally or by registered or certified mail to the owner of all real estate located within 6,000 feet of the plant or equipment for which such variance is sought (as the names of such owners shall appear on the latest bound records of the appropriate township assessor), a notice setting forth the name of the petitioner, the time and place of the hearing and a general description of the plant or equipment for which variance is sought and the nature of the variance sought. Any variance so given shall be subject to such limitations, as the Board may prescribe at the time of giving such variance.

(2.0) Section 2.7:

APPEALS

A. Any person taking exception to and affected by any final decision, ruling, requirement, rule, regulation, or order, or failure to act within a reasonable period of time upon request of the Director, may take an appeal to the Appeals Board established by this Ordinance. Such appeal shall be taken within fifteen (15) days after receiving notice of such decision, ruling requirement, rule, regulation, or order, or failure to act within a reasonable period of time upon request of the Director upon filing with the Director a notice of appeal directed to the Appeals Board, specifying the ground thereof and the relief prayed for. A fee of Fifty Dollars ($50.00) shall be posted by the appellant with the Director, at the time of the filing of the appeal to cover the costs of the hearing or appeal, which fee shall not be refundable if he is found in violation. The Director shall forthwith furnish to the Appeals Board all the papers in his possession relative to the matter or appeal.

B. Within ten (10) days after the date of filing of the notice of appeal, the Director shall set a date for the hearing, and shall give notice thereof by mail to the interested parties. The Appeals Board may in its discretion grant continuances. Such an appeal shall act as a stay of the decision, ruling, requirement, rule, regulation, or order in question until the Appeals Board has taken final action on the appeal. At the hearing any party may appear in person or by agent or attorney, and present written and oral evidence, and may examine and cross-examine witnesses. All testimony shall be given under oath. The Appeals Board, after the hearing, shall affirm, modify, or reverse the decision, ruling, requirement, rule, regulation, or order of the Director, or order him to act. The decision of the Appeals Board shall be binding on the parties, subject to judicial review as herein provided.

C. The procedural provisions of the Administrative Adjudication and Court Review Acts (Acts 1947, Chapter 365, Sections 1-30, P. 1451) and all amendments and modifications thereof, and the Procedural rules adopted pursuant thereof, shall apply and govern all proceedings for the judicial review of final administrative decisions hereunder and are adopted and incorporated herein by reference. References in said Act to an agency of the State of Indiana shall be deemed references to the Air Pollution Appeals Board of the City of Anderson, and references in said Act to the Attorney General shall be deemed references to the City Attorney.

D. The Appeals Board at its expense shall provide a Court Reporter to take the testimony and preserve a record of all proceedings before the Appeals Board. The notice of appeal, the notice of hearing, all exhibits, documents, pleadings, and written motions filed or admitted as evidence in the proceedings, the transcript of testimony adduced and the findings of fact and decision shall constitute the complete and exclusive record of such hearing. Any party to a hearing may obtain a typewritten transcript of such record at his or her own expense.

E. The Appeals Board shall not be required to certify any record or file any answer or otherwise appear in any proceeding for judicial review unless the party filing an appeal deposits the sum of ninety-five cents per page, which includes costs of certification. Failure on the part of the appellant to make such deposit shall be grounds for dismissal of the action. Upon judicial review the Chairman of the Appeals Board shall certify the record.

ARTICLE III

(2.0) STANDARDS AND RECOMMENDED PRACTICES

Section 3.1:

ADOPTED STANDARDS OR RECOMMENDED PRACTICES

Where reference is made in this Ordinance to the standards or recommended practices of national technical societies, associations, or other organizations, such information shall form and be considered an integral part of this Ordinance in the same manner and extent as if fully reproduced therein. No less than two copies of such standards or recommended practices of technical societies, associations, or other organizations, shall be kept on file at all times in the office of the Director and shall be available for consultation by the public.

ARTICLE IV

(3.0) PERMITS AND CERTIFICATES REQUIRED

Section 4.1:

PERMIT TO CONSTRUCT

Any person planning to construct a new installation or modify an existing one which will or might reasonably be expected to become a source of air pollution, or planning to install an air cleaning device shall submit a report, plans and specifications for approval prior to initiation of construction.

Section 4.2:

CERTIFICATE TO OPERATE

No person shall use or cause to be used any new or altered equipment or control apparatus without first having obtained a "Certificate to Operate Control Apparatus or Equipment" from the Director of the Department of Air Pollution Control. Such Certificates shall be valid for a period of five years unless sooner revoked by the Director of the Department of Air Pollution Control and such certificate may be renewed only after application to the Director not less than 90 days prior to their expiration date.

Section 4.2.1:

TRANSFERS

A "Certificate to Operate" shall not be transferable either from one location to another, or piece of equipment to another.

Section 4.2.2:

CONDITIONAL APPROVAL

Upon receipt of an application for the issuance of a "Certificate to Operate" or any renewal thereof, the Director may issue a temporary certificate valid for a period not to exceed 90 days.

Section 4.2.3:

The possession of a "Certificate to Operate" does not relieve any person from the obligation to comply with all other provisions of this ordinance or this ordinance or the state regulations regarding air pollution control.

Section 4.2.4:

Any person in possession of a "Certificate to Operate" shall maintain said certificate readily available on the operating premises.

Section 4.3:

EXEMPTIONS

The provisions of Sections 4.1 and 4.2 shall not apply to structural changes, repairs of maintenance, or identical replacement in whole or in part of any article, machine, equipment, or contrivance if such changes or repairs or maintenance or replacement cannot change the quality, nature, or quantity of air contaminants.

Section 4.4:

APPLICATIONS FOR PERMITS TO CONSTRUCT AND CERTIFICATES TO OPERATE

Applications for a permit to construct or a certificate to operate shall be made to the Director of the Department of Air Pollution Control on forms provided by the Director.

Section 4.4.1:

Before a Certificate to Operate, or any renewal thereof is issued, the Director may require the applicant to conduct such tests as are necessary in the opinion of the Director to determine the kind and/or amount of air contaminants emitted from the equipment or control apparatus. Such tests shall be made at the expense of the applicant and shall be conducted in a manner approved by the director.

Section 4.4.2:

An application shall be acted on within 30 calendar days after it is filed with the Director of the Department of Air Pollution Control. The Director shall notify the person applying for the permit, in writing, indicating the Director's approval, the Director's rejection, or the Director's request for additional information. After receipt of the additional information requested, the Director shall act upon the application within 5 calendar days.

Section 4.5:

If applicant deems the process or equipment to be secret he may file an affidavit with the Director stating that the equipment or process involved will be so used as to comply with all provisions of this ordinance without applicant being forced to reveal secrets by being required to comply with Article IV.

Section 4.6:

PERMIT VIOLATION

When construction, alteration, or installation is made which is not in accordance with the plans, specifications, and other pertinent information for which the permit was issued, the Director may deem this action as a violation and he is hereby authorized to seal the installation to prevent further work being done until the Director is assured that the condition in question will be corrected, and that the work will proceed in accordance with authorized permit terms or, if a change was agreed upon, as revised in writing by the Director. This section also applies where work is being done without a permit and the Director deems this action as a violation.

Section 4.7:

FAILURE TO OPERATE SUCCESSFULLY UNDER TEST

Failure to operate successfully under test within the limitations and requirements of this Ordinance will result in the Director refusing to issue a Certificate to Operate, and he is hereby authorized to seal the equipment until the person required to obtain the Certificate to Operate shall have complied with the air pollution control provisions of local ordinances and state regulations. This section also applies where equipment is being operated without a Certificate to Operate and the Director declares this action as a violation, in writing, directed to the person responsible for securing the Certificate to Operate.

Section 4.8:

DOMESTIC HEATING PLANTS

Provisions of Section 4 are not applicable to domestic heating plants and shall not apply to domestic refuse-burning equipment.

Section 4.9:

HEATING PLANTS OF LESS THAN 1,000,000 BTU/HR. INPUT

Provisions of Section 4 are not applicable for heating plants of less than 1,000,000 BTU/hr. input provided that such heating plant is for the single purpose of space-heating in residential units and the fuel used for firing is gas or light fuel oils.

Section 4.10:

REGISTRATION OF EMISSIONS

In order to assist the Director in locating the sources of air contaminants in those areas where the program of atmospheric monitoring and/or ambient air sampling shows acute changes that will affect the health of the people in the area, the Director shall have the authority to require the written registration of points of emission of air contaminants, whether by stack, duct, flue, equipment, or other means. A period of sixty (60) days shall be allowed for the filing of such registrations by the persons responsible for such filing, after notification in writing by the Director.

Section 4.10.1:

CONTENTS OF REGISTRATIONS

The written registration of points of emission may include the following information: the location of the source of emission, size of outlets, height of outlets, rate of emission, composition of emission, temperature of effluent or emission, and any other pertinent information specified by the Director in the written notification.

ARTICLE V

(2.0) SCHEDULE OF FEES

Section 5.1:

FILING FEES

Fees for the inspection of plans and issuing installation permits for the installation, erection, construction, reconstruction, alteration of, or addition to, fuel-burning, combustion, or process equipment or devices, and installation of apparatus or devices for the prevention or arresting of the discharged smoke, particulate, liquid, gaseous, or other matter shall be as follows:

Fuel-burning equipment used for space heating, steam and hot water, or power generation for each unit:

Of a capacity of 1,000,000 BTU/Hr. or more	$15.00

Refuse-burning equipment, for each unit:

With less than fifteen square feet of grate area	10.00
With fifteen or more square feet of grate area	15.00

Process equipment or control devices:

Per one unit operation or one unit process creating atmospheric pollution or any device controlling atmospheric pollution	10.00

Section 5.2:

CERTIFICATE TO OPERATE FEES

Fees shall be as follows for the issuance or reissuance of Certificate to Operate which may require annual inspection of fuel-burning, combustion, or process equipment or devices:

Fuel-burning equipment used for space heating, steam and hot water, or power generation for each unit:

Of a capacity of 1,000,000 BTU/Hr. or more	10.00

Refuse-burning equipment for each unit:

With less than fifteen square feet of grate area	5.00
With fifteen square feet or more of grate area	10.00

Process equipment or control devices:

Per one unit operation or one unit process creating atmospheric pollution or any device controlling atmospheric pollution	5.00

Section 5.3:

PAYMENT OF FEES

All fees or penalties prescribed for the issuance of permits, licenses, or certificates, or for the inspection of plans, premises or equipment, under any provision of this Article, shall be paid to the Director, who shall render to the person making such payment a receipt stating the amount and purpose for which such fee or penalty has been paid, a duplicate of which shall be made part of the records of the Department. All fees and penalties thus received shall be deposited with the City Controller for the General Fund.

Section 5.4:

DOMESTIC REFUSE-BURNING EQUIPMENT

Provisions of Section 5.1 and 5.2 of this Article are not applicable for Domestic Refuse-Burning Equipment.

Section 5.5:

FEES ARE DEBT DUE THE CITY-SUIT FOR

All fees or penalties prescribed for the payment of which is required under any provision of this article, shall constitute a debt due the City. The corporation counsel shall, at the direction of the Director, institute civil suit in the name of the City to recover the amount of any such unpaid fee or penalty. No civil judgment, or any act by the corporation counsel, the Director, or the violator, shall bar or prevent a criminal prosecution for each and every violation of this chapter.

ARTICLE VI

(2.0) EMISSION LIMITATIONS AND PROHIBITIONS

(51.13) Section 6.1:

OPEN BURNING

No person shall conduct a salvage operation by open burning except on written approval of the Director, for periods of time specified.

No person shall burn any refuse in any open fire except as follows:

a. Camp fires and fires used solely for recreation purposes where such fires are properly controlled by a responsible person.

b. Burning of rubbish on a farm, derived from an agricultural operation, when the prevailing winds at the time of burning are away from populated areas and no nuisance is created.

c. Open burning, in remote areas, of highly explosive or other dangerous materials for which there is no other known method of disposal or for special purposes when approved by the Director for each specific instance.

(50.1.2) Section 6.2:

SMOKE AND OTHER VISIBLE EMISSIONS

The Ringelmann Chart shall be used for grading the light-obscuring power of smoke. No person shall operate any combustion installation so as to produce, cause, suffer, or allow smoke to be emitted, the appearance, density or shade of which is darker than No. 2 of the Ringelmann Chart. When cleaning a fire or blowing tubes, smoke which is not darker than a No. 3 Ringelmann Chart may be emitted for a period or periods not exceeding five minutes in any 60-minute period; such emissions shall not be permitted on more than six occasions during any 24-hour period. When building a new fire, smoke not darker than a No. 3 Ringelmann Chart may be emitted not to exceed ten minutes on one occasion per day. The Director, at his discretion, may accept an extension of the time period and number of such time periods per day.

When a breakdown of equipment or a change of fuel results in smoke darker than a No. 2 of the Ringelmann Chart, the Director shall be notified immediately.

The capacity of any color equivalent to the Ringelmann Chart may be used as prima facie evidence in determining process emissions but may be refuted by approved stack emission tests or other evidence acceptable to the Director.

(51.5) Section 6.3:

COMBUSTION FOR INDIRECT HEATING

Emission of particulate matter from the combustion of fuel for indirect heating shall be limited by the ASME Standard No. APS-1 dated June 15, 1966, "Recommended Guide for the Control of Dust Emission-Combustion for Indirect Heat Exchangers." For purposes of this regulation, the maximum allowable emission shall be calculated using equation (15) in this Standard with a maximum down-wind ground level dust concentration of 50 micrograms per cubic meter for a 30 to 50 minute time period. Figure 2 of the Standard may be used to estimate allowable emission for any stack shall be 0.6 pounds for new equipment and 0.8 pounds for existing equipment of particulates per million BTU input.

(50.1.1) Section 6.4:

PROCESS OPERATION

Rules and Regulation APC5, APC6, APC7, as adopted by the Indiana Air Pollution Board shall become a part of this Ordinance. Any change or modification made by the Indiana Air Pollution Board shall automatically be included in this Ordinance.

(2.0) Section 6.8:

The Director is hereby empowered to enforce all Regulations of the Indiana State Air Pollution Control Board that are applicable in this local area.

(2.0) Section 6.9:

Nothing in any section of this Ordinance relating to regulation of emission of air contaminants shall in any manner be construed as authorizing or legalizing the erection or maintenance of a nuisance.

(7.0) Section 6.10:

BREAKDOWN OF EQUIPMENT

Emissions exceeding any of the limits established in Article VI as a direct result of upset conditions in or breakdown of any process, fuel-burning, refuse-burning or control equipment or related operating equipment beyond the control of the person owning or operating such equipment shall not be deemed to be in violation of Article VI provided that the owner or operator immediately advised the Director of the circumstances and outlines a corrective program acceptable to the Director.

ARTICLE VII

(9.0) IN-STACK SAMPLING AND SOURCE TESTING

(9.0)
(15.0) Section 7.1:

AUTHORITY TO REQUIRE A PERSON TO CONDUCT TESTS

The Director is hereby authorized to require a person to conduct at their expense any test or tests of process equipment, fuel-burning, refuse-burning, or control apparatus in pursuance with the requirements of Article IV.

ARTICLE VIII

(2.0) SEALING

Section 8.1:

The Director is hereby authorized to use a seal for sealing equipment of apparatus so as to forbid operation of the process equipment, fuel-burning, refuse-burning equipment, or control apparatus in pursuance with the requirements of Article IV.

Section 8.2:

A seal may be affixed, sealing violating equipment or apparatus not less than thirty (30) calendar days after the person or persons responsible for the equipment operation have been notified by registered mail of the Director's intentions to seal the violating equipment. The notice shall be directed to the last address of the person to be notified or if the person or his whereabouts is unknown, then the notice shall be posted on or near the premises at which the violations have occurred.

Section 8.3:

After the seal is affixed, the equipment or apparatus shall remain sealed until such time as corrective measures are taken and the Director authorizes in writing the breaking of the seal. It shall be unlawful for any person to break the seal without written authorization from the Director.

ARTICLE IX

(9.0)
(15.0)

RIGHT OF ENTRY FOR INVESTIGATION AND INSPECTION

The Director has the right to enter at all reasonable times in or about any private or public property except private residences for the purpose of inspecting and investigating conditions relating to the pollution of the atmosphere, in the City of Anderson, Indiana.

ARTICLE X

(2.0)

PERSONS LIABLE

All persons owning, operating, or in charge or control of any equipment or premises who shall cause, suffer, allow, permit, or participate in any violation of this ordinance shall be individually and collectively liable for any penalties imposed by this ordinance. This liability shall include any person who shall refuse to comply with or who shall assist in the violation of any of the provisions of this Ordinance.

ARTICLE XI

(2.0)

PARTY TO CLAIMS OR ACTIONS

All claims or actions filed by or against the Director of the Department of Air Pollution Control or against the Appeals Board of the Clean Air Council shall be brought in the name of or filed against the City of Anderson, Indiana, a municipal corporation.

ARTICLE XII

(15.0) PENALTIES FOR VIOLATIONS

Any person who shall violate any of the provisions of this Ordinance shall, upon conviction thereof, pay a fine of not less than Ten Dollars ($10.00) nor more than Three Hundred Dollars ($300.00) for each violation.

Each day's violation shall constitute a separate offense and an unlawful emission from each chimney, smoke stack, open fire or other point of discharge shall also constitute a separate offense. A separate and distinct offense shall be regarded as committed each day on which such person shall continue or permit any such violation to exist after notification thereof by the Director.

ARTICLE XIII

(15.0) ALTERNATIVE PROCEDURE FOR VIOLATIONS

Section 13.1:

VIOLATION NOTICE

When the Director has reason to believe an emission from any source violates the provisions of Article VI hereof, he may instead of acting under Article XII issue to the person or operator of the source of air pollutant in question a violation notice.

Section 13.2:

Any person who is issued a violation notice may, within ninety (90) days from date of receipt of said notice, submit data to the Director indicating reasons why he does not believe he was in violation of Article VI. The Director shall review the data submitted and within fifteen (15) days affirm or withdraw the violation notice by informing, in writing, the person receiving said notice of the Director's decision to affirm or withdraw. In the case of where the data required to refute the charge is not submitted to the Director within the ninety (90) days stipulated, the violation shall be considered still in force and affirmed.

Section 13.3:

When the Director affirms the violation notice as provided in Article XII, he may require the person to have emission tests performed at the person's own expense, to determine the extent of the emissions from the operation which is the subject of the emission violation notice. If the emission tests indicate that the total amount exceeds the maximum allowable emission standard applicable to the operation under Article VI, the violation notice shall be considered substantiated. If the emission tests indicate that the total amount is equal to or less than the emission standard applicable to the operation under Article VI, then the violation notice shall be considered void.

ARTICLE XIV

(2.0) SEVERABILITY

Section 17.1:

If any clause, sentence, paragraph or part of this Ordinance, or the application thereof to any person, firm, corporation or circumstances, shall for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair, or invalidate the remainder of this Ordinance, and the application of such provision to other persons, firms, corporations, or circumstances, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person, firm, corporation, or circumstances involved. It is hereby declared to be the legislative intent of this body that this Ordinance would have been adopted had such invalid provisions not been included.

ARTICLE XV

(2.0) RULES AND REGULATIONS

The Clean Air Council shall form the rules and regulations necessary or appropriate to carry out the provisions of this Ordinance and shall perform the duties imposed by law upon them. Such rules and regulations as may be adopted and promulgated by the Clean Air Council shall be submitted to the Common Council of the City of Anderson, Indiana, for its approval.

Before any rule or regulation or standard is adopted by the Clean Air Council, said Council shall cause a notice to be published in a newspaper of general circulation printed and published in the City of Anderson, Indiana, at least ten (10) days prior to the date set for hearing. Such notice shall include a statement of the time and place of said hearing, a reference to the subject matter of the proposed rule(s), and reference to the fact that a copy of such proposed rules and regulations is on file in the office of the Council where it may be examined; provided, however, that no rules or regulations shall be invalid because the reference to the subject matter thereof in said notice may be inadequate or insufficient. Any interested persons shall be given adequate opportunity to examine a copy of said proposed rules or regulations.

ARTICLE XVI

(2.0) REPEAL CLAUSE

Section 18.1:

REPEAL CLAUSE

All laws heretofore passed by the Common Council of the City of Anderson dealing with the problem of air pollution and specifically including an Ordinance entitled "Air Pollution Control," Chapter 98, are hereby repealed.

MUNICIPAL CODE OF EAST CHICAGO, INDIANA
RELATING TO
AIR QUALITY CONTROL

MUNICIPAL CODE OF EAST CHICAGO, INDIANA

RELATING TO

AIR QUALITY CONTROL

ARTICLE I

(2.0) GENERAL PROVISIONS

(2.0) Section 1.1:

SHORT TITLE. This ordinance shall be known and cited as the "Air Quality Control Ordinance."

(2.0) Section 1.2:

PURPOSE. This ordinance is designed to control air pollution by establishing the Department of Air Quality Control in the City of East Chicago, and prescribing the duties of the Director of Air Quality Control, empowering investigation and abatement, by the Director, of violations of this ordinance; providing for the establishment and enforcement of rules and regulations, providing for an Air Quality Control Advisory and Appeal Board, providing for registration of air pollution sources, permits for the installation, construction, addition to, alteration, and use of process, fuel-burning, refuse-burning, and control equipment and for the issuance of certificates of operation and for fees therefore, establishing limitations upon the emission of air pollutants, declaring emissions which do not meet such limitations to be unlawful and a public nuisance, prohibiting certain acts causing air pollution, providing for fines and penalties for violation of the provisions of this ordinance, and providing just and adequate means by which the provisions of this ordinance may be executed.

(1.0) Section 1.3:

DEFINITION OF TERMS. The following words and phrases when used in this ordinance shall for the purpose of this ordinance have the meanings respectively ascribed to them in this article, unless a different meaning is clearly indicated.

1. "Air Contaminant." Any smoke, soot, fly ash, dust, cinders, dirt, noxious or obnoxious acids, fumes, oxides, gases, vapors, odors, toxic or radioactive substances, waste, particulate, solid, liquid or gaseous matter, or any other materials in the outdoor atmosphere, but excluding uncombined water.

2. "Air Pollution." The presence in the outdoor atmosphere of one or more contaminants or combinations thereof in such quantities and of such duration that they are or may tend to be injurious to human, plant, or animal life, or property, or that interfere with the comfortable enjoyment of life or property or the conduct of business.

3. "ASME." The American Society of Mechanical Engineers.

4. "ASTM." The American Society for Testing Materials.

5. "Ashes." Includes cinders, fly ash or any other solid material resulting from combustion, and may include unburned combustibles.

6. "Board." The board created by this ordinance to act as the Air Quality Control Advisory and Appeal Board to the Director and to act as provided for pursuant to Section 2.4 of this ordinance.

7. "Certificate of Operation." A certificate issued by the Director authorizing the use of any process, fuel-burning, refuse-burning, or control equipment for the period indicated after it has been found that it can be operated in compliance with the ordinance.

8. "City." City of East Chicago, Indiana.

9. "Cleaning Fires." Act of removing ashes from the fuel bed or furnace.

10. "Combustible Refuse." Any combustible waste material.

11. "Control Equipment." Any equipment which has the function of regulating that portion of a process, fuel-burning, or refuse-burning equipment which may release air contaminants and thus reduce the creation of, or the emission of air contaminants to the atmosphere, or both.

12. "Council." City Council of the City of East Chicago.

13. "Department." The City of East Chicago, Air Quality Control Department.

14. "Director." The Director of the Air Quality Control Department or his authorized representatives.

15. "Domestic Heating Plant." A plant generating heat for a single family residence, or for two residences either in duplex or double house form, or for multiple-dwelling units having a total input of less than 1,000,000 BTU's per hour and provided that such heating plant is for the single purpose of space heating and the fuel used is gas or light fuel oils. Under this designation are also hot water heaters, stoves, space-heaters and other domestic appliances used in connection with the foregoing establishments, or to heat temporary buildings, provided however, that like equipment used in multiple-dwelling units other than herein described, or used in permanent buildings of commercial or industrial establishments, is not to be construed as included under this designation.

16. "Domestic Incinerator or Refuse-Burning Equipment." Any refuse-burning equipment or incinerator which is portable, packaged, completely assembled, direct-fed incinerator, having not over 5 cubic feet storage capacity or 25 pounds per hour burning rate, designed to handle combustible refuse consisting of rubbish and garbage by weight.

17. "Emission." The act of passing into the atmosphere of an air contaminant, or the material so passed to the atmosphere.

18. "Fuel-Burning Equipment." Any equipment, device or contrivance used for the burning of any fuel and all appurtenances thereto, including ducts, breechings, control equipment, fuel-feeding equipment, ash-removal equipment, combustion controls, stacks, chimneys, etc., used for indirect heating in which the material being heated is not contacted by and adds no substance to the products of combustion. Such equipment typically includes that used for heating water to boiling; raising steam, or superheating steam; heating air as in a warm air furnace; furnishing process heat that is conducted through process vessel walls; and furnishing process heat indirectly through its transfer by fluids.

19. "Hand-Fired Fuel-Burning Equipment." Fuel-burning equipment in which fuel is manually introduced directly into the combustion chamber.

20. "Incinerators." All devices intended or used for the destruction of refuse or other combustible refuse by burning.

21. "Installation Permit." A permit issued by the Director authorizing the construction, installation or alteration, of any process, fuel-burning, refuse-burning, or control equipment in accordance with plans and specifications approved by the Director.

22. "Mayor." The Mayor of the City of East Chicago, Indiana.

23. "Opacity." State of a substance which renders it partially or wholly impervious to the rays of light. Opacity as used in this ordinance refers to the obscuration of an observer's view.

24. "Open Burning." Any fire from which the products of combustion are emitted directly into the outdoor atmosphere without passing through a stack.

25. "Particulate Matter." Material other than uncombined water which is suspended in air or other gases as a liquid or solid.

26. "Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural, where indicated by the context.

27. "Process Equipment." Any equipment, device, or contrivance for changing any materials whatever, or for storing or handling of any materials, and all appurtenances thereto, including ducts, stacks, etc. the use or existence of which may cause any discharge of air pollutants into the outdoor atmosphere but not including that equipment specifically defined as fuel-burning equipment or refuse-burning equipment in this ordinance.

28. "Process Weight." The total weight of all materials introduced into a unit operation or unit process including solid fuels, but excluding liquid and gaseous fuels when these are used solely as fuels, and excluding air introduced for purposes of combustion.

29. "Process Weight Rate." A rate established as follows:

    (a) For continuous or long-run steady-state unit operations or unit process, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof.

    (b) For cyclical or batch unit operations or unit processes, the total process weight for a period that covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such a period.

    Where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of the above definitions, the interpretation that results in the minimum value for allowable emission shall apply.

30. "Refuse-Burning Equipment." Any incinerator, equipment, device, or contrivance used for the destruction of refuse, and/or other combustible wastes by burning, and all appurtenances thereto.

31. "Salvage Operations." Any operation conducted in whole or in part for the salvaging or reclaiming of any product or material.

32. "Seal for Sealing Equipment or Premises." A device installed by the Director so as to prevent use of the process, fuel-burning, refuse-burning, or control equipment or premises causing the violation or from which violations of this ordinance originate.

33. "Smoke." Small gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon, ash, and other combustible material.

34. "Stack." Duct, chimney, flue, conduit, vent, exhaust, breeching or any structure or opening arranged for the emission into the outdoor atmosphere of air pollutants.

35. "Unit Operation." Methods where raw materials undergo physical change; methods by which raw materials may be altered into different states, such as vapor, liquid, or solid without changing into a new substance with different properties and composition.

36. "Unit Process." Reactions where raw materials undergo chemical change; where one or more raw materials are combined and completely changed into a new substance with different properties and composition.

ARTICLE II

(2.0) ADMINISTRATIVE ORGANIZATION

(2.0) Section 2.1:
(15.0)

ADMINISTRATIVE ORGANIZATION AND ENFORCEMENT

(a) This ordinance shall be effective territorially throughout the City of East Chicago, Indiana.

(b) The administration and enforcement of this ordinance shall be conducted by the Department of Air Quality Control headed by a Director.

(c) There is hereby created in the Department of Air Quality Control the position of Director of Air Quality Control. He shall be appointed by the Mayor.

(d) The Director shall perform such duties as may be required of him relative to Air Quality Control. He shall have control of all matters and things pertaining to the work of the Department, and shall supervise the execution of all laws, rules, and regulations pertaining to air pollution as provided in this ordinance.

(e) The Director shall be qualified by technical training, and have at least three years experience in the theory and practice of construction and operation of furnaces, combustion devices, or in the theory and practice of air quality control and shall be qualified by education and experience to cooperate with scientific, educational and civic organizations interested in air quality control.

(15.0) Section 2.2:

POWERS AND DUTIES OF THE DIRECTOR

(a) Supervise the execution of all laws, ordinances, rules, and regulations pertaining to air pollution as provided in this ordinance.

(b) Institute complaints against all persons violating any provision of this ordinance and refer to the city attorney all matters which require legal proceedings and to prosecute violations of this ordinance and compel the prevention and abatement of air pollution or nuisances arising therefrom.

(c) Examine plans for all new buildings and for the alteration of all existing buildings, structures, and equipment which may cause the issuance of air contaminants in order to assure that they can comply with the rules and regulations of this ordinance.

(d) Examine and approve or disapprove the plans for fuel and refuse-burning equipment, process equipment, and control equipment to be installed, constructed, reconstructed, or altered or added to.

(e) Make inspections and tests of existing and newly installed, repaired, constructed, reconstructed, or altered fuel or refuse-burning equipment, process equipment, and control equipment.

(f) Investigate complaints of violations of this ordinance and make inspections and observations of air pollution conditions. Record such investigations, complaints, inspections, and observations.

(g) Approve or reject application for permits, and administer the issuance of certificates of operation, notices or other matters required under the provisions of this ordinance.

(h) Prepare and place before the Advisory and Appeal Board, for their consideration, proposals for additions or revisions to this ordinance, or any other regulation pertaining to air pollution abatement.

(i) Encourage voluntary co-operation by persons or affected groups in the preservation and restoration of the purity of the outdoor atmosphere, and grant a reasonable time to comply with the provisions of this ordinance.

(j) Collect and disseminate information on air quality control.

(k) Work with planning and zoning agencies for the purpose of co-ordinating activities under provisions of this ordinance and foster the best possible management of the air resources.

(l) Co-operate and work with Federal, interstate, state, county, district, municipal, and other agencies concerned with air pollution, with regard to aerometric studies, abatement programs, public complaints, and other matters to the end that the air resources of East Chicago and Lake County shall be best conserved and improved.

(m) To recommend needful rules and regulations pertaining to the administration of this ordinance.

(n) To issue all permits, certificates, notices, or other matters required under the provisions of this ordinance; to prepare and maintain adequate records thereof; and to notify all persons concerned of any decision he may render and to provide such persons with an opportunity to be heard as herein set forth.

(o) To report to the Mayor and the Air Quality Control Advisory and Appeal Board with respect to recommendations for needed additions or revisions of this ordinance.

(p) Do any and all acts which may be necessary for the successful prosecution of the purpose of this ordinance and such other acts as may be specifically enumerated herein as his duties.

(q) To enlist the cooperation of the public in the abatement of air pollution.

(r) To refer such matters to the Municipal Board of Health which may require their attention or assistance.

(9.0) Section 2.3:

AIR QUALITY CONTROL INSPECTORS

(a) Air Pollution inspectors shall be employees of the Department, qualified by technical training in the theory and practice of the construction and operation of combustion and process equipment or in the theory and practice of smoke abatement and air quality control.

(b) The duties of the inspectors shall be to carry out the directions of the Director in all matters relating to enforcement of this ordinance, and to aid and assist the Director in the efficient discharge of his duties.

(c) No person employed in the Department shall be directly or indirectly interested in the manufacture, lease or sale of fuel, combustion or process equipment or gas cleaning devices, or other smoke abatement or air pollution control equipment, or the apparatus or devices connected therewith or any extensions thereof.

(d) No person acting on behalf of the city under the provisions of this ordinance shall take or receive any money or any valuable thing for the purpose of deceiving, defrauding, or favoring any person. No employee shall recommend the issuance of any operating permit or certificate of operation without having at the time stated, thoroughly examined and approved the plans for fuel-burning or process equipment so approved or certified.

(16.0) Section 2.4:

AIR QUALITY CONTROL ADVISORY AND APPEAL BOARD

(A) An Air Quality Control Advisory and Appeal Board shall be appointed by the Mayor. The Director may make recommendations to the Mayor for such appointments. This Board shall study the problem of air quality control within the City, and shall from time to time recommend to the Director appropriate means of air pollution abatement, including needed additions to or revisions of this ordinance.

(B) The Air Quality Advisory and Appeal Board shall consist of not less than seven (7) members. Not more than two (2) members of said Board shall hold any public office. The two Ex-officio members shall be the Building Commissioner and one member of the Common Council, to be named by the President of said council; a Chemist or Engineers, at least one Physician licensed to practice medicine in the State of Indiana, and at least one Attorney licensed to practice law in the State of Indiana.

Two (2) members shall be appointed for a term of one year, two (2) members for a term of two years, and the remainder for a term of three years. Upon expiration of any term all succeeding terms shall be for a term of three years. This provision shall be implemented by the Mayor on future replacements or vacancies so as to provide for the aforementioned qualified members in an orderly transition from the previous method of appointing Board members.

(C) The Air Quality Control Advisory and Appeal Board shall elect its own chairman. A quorum shall consist of a majority of the members of the Board. It shall meet at the call of the chairman, who shall be elected by the Board at the first meeting of each year. No chairman shall serve for more than two (2) consecutive terms. All members shall serve without compensation and all secretarial duties of the Board shall be performed by the secretary of the Department. The Mayor shall appoint additional members to fill all vacancies. The Director shall be an Ex-officio member of the Board without the right to vote.

(D) The Advisory and Appeal Board shall hold a regular meeting at least quarterly and other meetings at such additional times as may be called by the chairman. The chairman shall call a special meeting upon the written request of at least three members of the Board or at the written request of the Director. The Board shall keep minutes of its proceedings which shall clearly show the official actions of the Board and the vote of any member. All meetings and hearings of the Board shall be open to the public.

(E) The Air Quality Control Advisory and Appeal Board shall confer with and advise the Director on needed revisions or additions in this or any other ordinance pertaining to air pollution or rules or regulations promulgated thereunder and on any matters concerning air pollution abatement or control.

(F) A majority of the Appeal Board is hereby vested with the following jurisdiction and authority:

(1) To decide appeals from any decision, ruling, regulation, determination or order made by the Director under this ordinance, or failure to act upon request within a reasonable period of the directive in the manner and subject to the standards hereinafter set out;

(2) To pass upon application for extension of time for compliance or for exemptions of variances in the manner and subject to Article X.

(3) To decide all matters referred to it or upon which it is required to pass under this ordinance.

(16.0) Section 2.5:

APPEALS TO AIR QUALITY CONTROL ADVISORY AND APPEAL BOARD

Persons who desire to take exception to any decision, ruling, regulation, or order of the Director of Air Quality Control may appeal to the Air Quality Control Advisory and Appeal Board. Such appeal shall be taken within fifteen (15) days after receiving notice of decision, ruling or order complained of by filing with the Director a written notice of appeal directed to the Board specifying the grounds thereof and the relief sought. A fee of Fifty ($50.00) Dollars shall be posted by the appellant with the Director, at the time of the filing of the appeal to cover the costs of the hearing on appeal, which fee shall not be refundable. The Director shall forthwith furnish to the Advisory and Appeal Board all the papers in his possession relative to the matter or appeal. Within ten (10) days after the date of filing of the notice of appeal the Board shall set a date for the hearing, and shall give notice thereof by mail to the interested parties. The Board may in its discretion grant continuances. Such an appeal shall act as a stay of the decision, ruling, requirement, rule, regulation, or order in question until the Board has taken final action on the appeal. At the hearing any party may appear in person or by agent or attorney, and present written and oral evidence, pertinent to the questions and issues involved, and may examine and cross-examine witnesses. All testimony shall be given under oath. The Board, after the hearing, shall affirm, modify or reverse the decision, ruling, requirement, rule, regulation or order of the Director, or order him to act. The decision of the Board shall be binding on the Director and appellant unless reversed by a court of competent jurisdiction upon judicial review.

The procedural provisions of the Administrative Adjudication and Court Review Act (Acts 1917, Chapter 365, Sections 1-30, P. 1451) and all amendments and modifications thereof, and the Procedural rules adopted pursuant thereof, shall apply and govern all proceedings for the judicial review of final administrative decisions hereunder and are adopted and incorporated herein by reference. References in said Act to an agency of the State of Indiana shall be deemed references to the Air Pollution Advisory and Appeal Board of the City of East Chicago, and references in said Act to the Attorney General shall be deemed references to the City Attorney.

The Advisory and Appeal Board at its expense shall provide a court reporter to take the testimony and preserve a record of all proceedings before the Board. The notice of appeal, the notice of hearing, all exhibits, documents, pleadings, and written motions filed or admitted as evidence in the proceedings, the transcript of testimony adduced and the findings of fact and decisions shall constitute the complete and exclusive record of such hearing. Any party to a hearing may obtain a typewritten transcript of such record at his or her own expense.

The Advisory and Appeal Board shall not be required to certify any record or file any answer or otherwise appear in any proceeding for judicial review unless the party filing the appeal deposits the sum of ninety-five cents per page, which includes costs of certification. Failure on the part of the appellant to make such deposits shall be grounds for dismissal of the action. Upon judicial review the Secretary of the Advisory and Appeal Board shall certify the record.

ARTICLE III

(2.0) STANDARDS AND RECOMMENDED PRACTICES

(2.0) Section 3.1:

ADOPTED STANDARDS OR RECOMMENDED PRACTICES

Where reference is made in this ordinance to the standards or recommended practices of national technical societies, associations, or other organizations, such information shall form and be considered an integral part of the ordinance in the same manner and extent as if fully reproduced therein. Not less than two copies of such standards, or recommended practices of technical societies, associations or other organizations shall be kept on file at all times in the office of the Director and shall be available for consultation by the public.

ARTICLE IV

(3.0) INSTALLATION PERMIT AND CERTIFICATE OF OPERATION

Section 4.1:

APPLICATION REQUIRED. No person shall construct, install, reconstruct, or alter any process, fuel-burning, refuse-burning, or control equipment pertaining thereto, that may be a source of air contaminant, for use within the City of East Chicago until an application, including not less than two sets of properly prepared plans and specifications of the process, fuel-burning, refuse-burning, or control equipment and structures or buildings used in connection therewith has been filed by the person or his agent in the office of, and has been approved by the Director, and until an installation permit has been issued by the Director for such construction, installation, or alteration, except as stated in Section 4.6.

Section 4.2:

INFORMATION REQUIRED. The above mentioned plans or specifications if requested by the Director, shall show the form and dimensions of the process, fuel-burning, refuse-burning, or control equipment, together with the description and dimensions of the building or part thereof in which such process, fuel-burning, refuse-burning, or control equipment is to be located, including the means provided for admitting the air for combustion processes; the character of the fuel to be used; the maximum quantity of such fuel to be burned per hour; the kind and amount of raw materials processed; the expected air contaminant emission rate; the operating requirements; the use to be made of such process, fuel-burning, refuse-burning, or control equipment; contaminant concentration, gas volume, and gas temperature at the emission point; physical characteristics of particulates emitted; the location and elevation of the emission point relative to nearby structures, window openings, etc., a flow diagram showing the equipment under consideration and its relationship to other processes, if any, and a general description of these processes; and any other reasonable and pertinent information that may be required by the Director.

Section 4.3:

AFFIDAVIT FOR SECRET PROCESS. If applicant deems the process or equipment to be secret, he may file, with the approval of the Director, an affidavit to the effect that such equipment or process will be so used as to comply with all other provisions of this ordinance. Plans and specifications filed with such an affidavit will remain the property of the applicant and shall be only for the confidential use of the Director, the control board and their representatives, unless such owner or operator shall expressly agree to their publication or availability to the general public. Nothing herein shall be construed to prevent the use of such records or information by any department, agency or officer of the city in compiling or publishing analyses or summaries relating to the general condition of the ambient atmosphere: Provided that such analyses or summaries do not identify, directly or indirectly, any owner or operator or reveal any information otherwise confidential under this Section.

Section 4.4:

EMERGENCY REPAIRS. An emergency repair may be made prior to the application for an installation permit if serious air pollution consequences may result if the repair were deferred. When such repair is made, the person concerned shall notify the Director on the first business day after the emergency occurred and file an application for an installation permit if directed to do so by the Director.

Section 4.5:

ACTION ON PERMIT APPLICATIONS. An application shall be acted on within 30 calendar days, after it is filed in the office of the Director. The Director shall notify the applicant for the permit of approval or reasons for rejection of the application, in writing. Upon the approval of the application and upon the payment of the prescribed fees, the Director shall issue a permit for the construction, installation, or alteration of such process, fuel-burning, refuse-burning, or control equipment.

Section 4.6:

ALTERNATE ACTION ON PERMIT APPLICATION. In the event the plans, specifications, and information submitted to the Director pursuant to Sections 4.1 and 4.2 herein, reveal a proposal to construct, install, reconstruct or alter any process, fuel-burning, refuse-burning or control equipment of such complex design and/or involving technological ingenuity or advances of considerable magnitude, the Director may, at his option, and in lieu of issuing an installation permit, require the applicant to file with the Director a statement certifying that the proposed equipment or installation will comply with all of the applicable provisions and limitations set forth in this ordinance. Upon the filing of such certificate of compliance, the applicant may proceed with the proposed installation subject, however, to all of the provisions of Section 4.9 hereinafter set forth.

Section 4.7:

APPLICABILITY OF THE PERMIT. No construction, installation, reconstruction, or alteration shall be made which is not in accordance with the plans, specifications, and other pertinent information upon which the installation permit was issued without the written approval of the Director.

Section 4.8:

PERMIT VIOLATION. Violation of the installation permit shall be sufficient cause for the Director to stop all work, in connection with said permit and he is hereby authorized to seal the installation. No further work shall be done until the Director is assured that the condition in question will be corrected and that the work will proceed in accordance with the installation permit.

Section 4.9:

TIME LIMIT ON PERMITS. If construction, installation, reconstruction, or alteration is not completed within one (1) year of the date of the installation permit or within the period of time specified in the permit, the permit shall become void and all fees shall be forfeited, unless an extension of time is warranted and granted by the Director.

Section 4.10:

CERTIFICATE OF OPERATION. No person shall operate or cause to be operated any process, fuel-burning, refuse-burning, or control equipment or any equipment pertaining thereto for which an installation permit was required or was issued under this ordinance until an inspection has been made by the Director. The person responsible for the installation, construction, or alteration of any process, fuel-burning, or control equipment for which an installation permit is required, shall notify the Director when the work is completed and ready for final inspection. No equipment shall be operated for any other purpose or in any other manner than that for which the installation permit was approved and for which a certificate of operation has been issued unless otherwise authorized in writing by the Director. After the installation permit has been issued and it is demonstrated to the satisfaction of the Director, that the process, fuel-burning, refuse-burning, or control equipment can be operated in compliance with this ordinance,an initial certificate of operation shall be issued by the Director. Emission tests may be required by the Director before the issuing of an initial certificate of operation as set forth in Article IV. Said certificate of operation shall be kept posted on or near the installation for which it was issued. The certificate of operation shall properly identify the equipment to which it pertains and shall specify the class of fuel, type of refuse, type of raw materials used, if any, which have been successfully used in the operating test. The initial certificate of operation shall remain in force until terminated by any one or more of the following actions:

(a) Implementation and institution of Sections 4.8 and 4.9

(b) Execution of Article XI

Failure to operate successfully under test within the limitations and requirements of this ordinance shall constitute sufficient grounds for ordering changes in the process, fuel-burning, refuse-burning, or control equipment or appurtenances before an initial certificate of operation can be granted. When the Director refuses to issue a certificate of operation, the Director is authorized to seal the process, fuel-burning, refuse-burning, or control equipment until the person required to procure the certificate of operation shall have complied with the provisions of this ordinance.

Section 4.11:

RENEWAL OF CERTIFICATES OF OPERATION

(a) The Director shall require application of renewal of certificates of operation on those installations for which an installation permit was obtained, and shall require the issuance or renewal of certificates of operation on equipment existing prior to the adoption of this ordinance and collect appropriate fees thereof for such certificates.

(b) A listing of all applications for certificates of operation and permit fees must be submitted to the Department. Such certificates of operation shall not be required more often than once per year, and may be terminated for the same reasons as listed in Section 4.8. The Director is hereby authorized to seal any equipment for which a certificate of operation is required and has not been issued. Installation permits and certificates of operation shall not be transferable.

Section 4.12:

REGISTRATION OF EMISSIONS. The Director may require the written registration of points of emission of air contaminants, whether by stack, duct, flue, equipment, or by any other means when, in his opinion, such information is necessary for the conduct of the work of the department. A period of sixty (60) days shall be allowed for the filing of such registration.

However, in case of emergency, the Director may designate any lesser time which he believes to be justified. The Director is also empowered to notify the owner or agent when, in his opinion, such registration is no longer required.

Section 4.13:

CONTENT OF REGISTRATION. The written registration of points of emission may include the following information: The location of the source of emission, size of outlets, height of outlets, rate of emission, composition of emission, temperature effluent or emission, nature of the equipment creating the emissions, and any other pertinent information specified by the Director.

Section 4.14:

DOMESTIC HEATING PLANTS AND DOMESTIC INCINERATORS. Provisions of this section are not applicable to Domestic Heating Plants or Domestic Incinerators.

Section 4.15:

PROSECUTION OF ORDINANCE VIOLATIONS. The issuance by the Director of any installation permit or certificate of operation shall not be held to exempt the person to whom the permit or certificate was issued or who is in possession of the same, from prosecution of the emission of air contaminants prohibited by this ordinance.

ARTICLE V

(2.0) SCHEDULE OF FEES

Section 5.1:

FILING FEES. Fees for the inspection of plans and issuing installation permits for the installation, erection, construction, reconstruction, alteration of, or addition to, fuel-burning, combustion or process equipment or devices, and installation of apparatus or devices for the prevention or arresting of the discharge smoke, particulate, liquid, gaseous, or other matter shall be as follows:

Fuel-burning equipment used for space heating, steam and hot water or power generation for each unit:

Of a capacity of 1,000,000 BTU/HR or more	$15.00

Refuse-burning equipment, for each unit:

With less than fifteen square feet of grate area	$10.00
With fifteen or more square feet of grate area	$15.00

Process equipment or control devices:

Per one unit operation or one unit process creating atmospheric pollution or any device controlling atmospheric pollution	$10.00

Section 5.2:

ANNUAL CERTIFICATE OF OPERATION FEES. Fees shall be as follows for the issuance or reissuance of Certificate of Operation which may require annual inspection of fuel-burning, combustion or process equipment or devices:

Fuel-burning equipment used for space heating, steam and hot water or power generation for each unit:

Of a capacity of 1,000,000 BTU/HR or more	$10.00

Refuse-burning equipment for each unit:

With less than fifteen square feet of grate area	$ 5.00
With fifteen square feet or more of grate area	$10.00

Process equipment or control devices:

Per one unit operation or one unit process creating atmospheric pollution or any device controlling atmospheric pollution	$ 5.00

Section 5.3:

PAYMENT OF FEES

All fees or penalties prescribed for the issuance of permits, licenses or certificates, or for the inspection of plans, premises or equipment, under any provision of this Article, shall be paid to the Director, who shall render to the person making such payment a receipt stating the amount and purpose for which such fee or penalty has been paid, a duplicate of which shall be made part of the records of the Department. All fees and penalties thus received shall be deposited with the City Controller for the Corporate Fund.

Section 5.4:

DOMESTIC REFUSE BURNING EQUIPMENT

Provisions of Section 5.1 and 5.2 of this Article are not applicable for Domestic Refuse Burning Equipment.

Section 5.5:

FEES AND DEBT DUE THE CITY - SUIT FOR

All fees or penalties prescribed for the payment of which is required under any provision of this Article, shall constitute a debt due the City. The City Attorney shall, at the direction of the Director, institute civil suit in the name of the City to recover the amount of any such unpaid fee or penalty. No civil judgment, or any act by the City Attorney, the Director, or the violator, shall bar or prevent a criminal prosecution for each and every violation of this chapter.

ARTICLE VI

(9.0) EMISSION LIMITATIONS AND PROHIBITIONS - STANDARDS OF MEASUREMENT

(50.1.2) Section 6.1:

VISIBLE EMISSIONS. It shall be unlawful for any person to discharge into the atmosphere, or cause to be so discharged, from any combustion or process equipment or device, vehicle, incinerator or open fire whatsoever any air contaminant for a period or aggregating more than five minutes in any one hour which is:

(a) As dark or darker in shade as that designated as No. 2 on Ringelmann Chart, as published by the United States Bureau of Mines, or

(b) Of such opacity as to obscure an observer's view to a degree equal to or greater than described in subsection (a) of this section.

(51.5) Section 6.2:

EMISSION OF PARTICULATE MATTER FROM FUEL-BURNING EQUIPMENT

(a) No person shall cause, suffer or allow to be emitted into the outdoor atmosphere from any fuel-burning equipment or premises, or to pass a convenient measuring point near the stack outlet, particulate matter in the gases to exceed 0.60 lbs. per 1,000,000 BTU heat input for fuel burning units using less than 10,000,000 BTU per hour total input. For single unit greater than 10,000,000 BTU per hour total input, Figure 1 as herein set forth on page 31 hereof will be used to determine the allowable particulate emission limitation.

(b) If two or more units connect to a single stack or chimney, each unit shall for the purpose of computing the maximum allowable emission rate be considered a separate entity with the allowable emission rate for the stack or chimney the sum of the individual computations.

(50.1)
(51.9) Section 6.3:

EMISSION OF PARTICULATE MATTER FROM INCINERATORS

(a) No person shall cause, suffer or allow to be emitted into the outdoor atmosphere from any incinerator, refuse-burning equipment or premises, particulate matter in gases to exceed 0.65 pounds for each 1,000 pounds of dry flue gases adjusted to 12% carbon dioxide (excluding the effects of any auxiliary fuel; or odorous material arising from the installation which are detectable beyond the premises on which the installation is located.

(b) No incinerator shall be used for the burning of refuse unless such incinerator is a multiple chamber incinerator. Existing incinerators which are not multiple chamber incinerators, may be altered, modified, or rebuilt as may be necessary to meet the requirements of emission limitations after plans and specifications have been approved by the Director.

(50.1.1) Section 6.4:

EMISSIONS OF PARTICULATE MATTER FROM INDUSTRIAL PROCESS EQUIPMENT

(a) The maximum allowable emission of particulate matter from any source whatever except fuel-burning and refuse-burning equipment shall be determined from Table 1 as herein set forth on page 32 herein. To use the table, find the process weight per hour in the table, and note the allowable rate of emission in pounds per hour next to the process weight per hour.

(b) If two or more process units connect to a single stack or chimney, each unit shall for the purpose of computing the maximum allowable emission rate be considered a separate entity with the allowable emission rate for the stack or chimney the sum of the individual computations.

(51.16) Section 6.5:

STORAGE OF PETROLEUM OR OTHER VOLATILE PRODUCTS

A person shall not place, store or hold in any stationary tank, reservoir or other container of more than 65,000 gallons capacity any petroleum or volatile product or mixture of products having a vapor pressure of 2.0 pounds per square inch absolute or greater under actual storage conditions, unless such tank, reservoir or other container is a pressure tank maintaining working pressures sufficient at all times to prevent hydrocarbon vapor or gas loss to the atmosphere, or is designed and equipped with one of the following vapor loss control devices, properly installed, in good working order and in operation:

(a) A floating roof, consisting of a pontoon-type or double-deck type roof, resting on the surface of the liquid contents and equipped with a closure seal, or seals, to close the space between the roof edge and tank wall. The control equipment provided for in this paragraph shall not be used if the gasoline petroleum distillate or other volatile products has a vapor pressure of 12.0 pounds per square inch absolute or greater under actual storage conditions. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

(b) A vapor recovery system, consisting of a vapor-gathering system capable of collecting the hydrocarbon vapors or other gases discharged and a vapor-disposal system capable of processing such hydrocarbon vapors or other gases so as to prevent their emission to the atmosphere and with all tank gauging and sampling devices gas-tight except when gauging or sampling is taking place.

(c) Other equipment of equal efficiency, provided plans for such equipment are submitted to and approved by the Director.

(51.16) Section 6.6:

VOLATILE PETROLEUM DISTILLATE OR OTHER VOLATILE PRODUCT LOADING INTO TANKS, TRUCKS, TRAILERS AND RAILROAD TANK CARS

A person shall not load volatile petroleum distillates or other volatile products into any tank, truck or trailer or railroad car from any loading facility unless such loading operation utilizes a submerged fill pipe or such loading facility is equipped with a vapor collection and disposal system or its equivalent, properly installed, in good working order, in operation and approved by the Director.

For purposes of this section any petroleum distillate having a Reid vapor pressure of 4 pounds or greater shall be included by the term "volatile petroleum distillate or other volatile product."

For the purpose of this section, the term "submerged fill pipe" is defined as any fill pipe the discharge opening of which is entirely submerged when the liquid level is 6 inches above the bottom of the tank. "Submerged fill pipe" when applied to a tank which is loaded from the side is defined as any fill pipe the discharge opening of which is entirely submerged when the liquid is 18 inches above the bottom of the tank.

(50.2) Section 6.7:

SULFUR OXIDES

(1) No person shall cause, let, permit, suffer or allow any emission of sulfur oxides which results in ground level concentrations of sulfur oxides at any given point in excess of 0.5 ppm (volume) in the period of any hour and average exposure shall not exceed 0.1 ppm (volume) of sulfur oxide in any 24-hour period. These limitations shall not apply to ground level concentrations occurring on the property from which such emission occurs, provided such property, from the emission point to the point of any such concentration is controlled by the person responsible for such emission.

(51.6) Section 6.8:

SULFUR LIMITATION OF FUELS

(A) No person shall cause or permit the use, or if intended for use in the City of East Chicago, except as provided in Paragraph E below, the purchase, sale, offer for sale, storage or transportation of fuel, which, as determined by the Methods of the American Society for Testing and Materials, contains more than the following quantity of sulfur per million BTU in the following use classifications:

(1) From July 1, 1971 until July 2, 1972, 1.8 pounds of sulfur per million BTU heating value.

(2) After July 1, 1972, .9 pounds of sulfur per million BTU heating value.

(B) All new space heating equipment, the plans for which are 50% or less completed by July 1, 1971, shall be limited to the use of fuels containing no more than 0.9 lb. of sulfur per million BTU. All existing space heating equipment shall be limited to the use of fuels containing not more than 1.8 pounds of sulfur per million BTU on and after July 1, 1971, to and including July 1, 1972, and shall thereafter be limited to the use of fuels, containing no more than 0.9 pounds sulfur per million BTU on and after July 1, 1972.

(C) All new and existing industrial power plants, electric power generating plants and process plants, except as provided in Paragraph E below, shall be limited to the use of fuel containing no more than 1.35 pounds of sulfur per million BTU from and after July 1, 1971, and shall be limited to the use of fuel containing no more than 0.9 pounds of sulfur per million BTU on and after July 1, 1972.

(D) No fuels exceeding the sulfur limitations set forth in this section shall be used in the City of East Chicago without prior notification of its use to the Department.

(E) The following exceptions apply to the above Paragraphs A through D of Section 6.8.

(1) Fuels which exceed the sulfur limits as specified in Paragraph A may be sold, stored or transferred for use in East Chicago if intended for use in combination simultaneously with othe fuels in a facility whereby emissions of sulfur dioxide will not exceed that which could result from burning fuels having limits specified in Paragraph A.

(2) Fuels which exceed the sulfur limits specified in Paragraph C may be burned in industrial power plants, electric power generating plants and process plants if burned in combination with other fuels or materials in a facility whereby the emissions of sulfur dioxide shall not exceed that which would result from burning fuels specified in Paragraph C.

(3) Any facility which has installed equipment, approved by the Department for the control of sulfur oxide emissions, may use fuels of higher sulfur content than that stipulated in Paragraphs A or C, this section.

(F) If the limitations set forth in this ordinance allow greater emissions of SO2 than are allowed by applicable regulations of the State of Indiana, the state regulations shall govern.

(51.6) Section 6.9:

SULFUR OXIDE EMISSIONS FROM SINGLE STACKS

(A) After July 1, 1971, no person shall cause or permit the emission into the atmosphere from any new or existing stack, gases containing more than 1200 ppm by volume of sulfur dioxide at 20% excess air and after July 1, 1972, 850 ppm except as provided in Paragraph B below.

(B) The limitations set forth in Paragraph A shall not apply to sulfur recovery plants or desulfurizing units employing the best available technology, as approved by the Director, for minimizing SO2 emissions nor to other existing processes for which there is no generally accepted control method, as determined by the Director.

(51.18) Section 6.10:

SULFURIC ACID MANUFACTURING PROCESSES. No person shall cause or permit the emission into the atmosphere from any new or existing Sulfuric Acid manufacturing process more than 6.5 pounds of SO2 per ton of acid produced. Acid mist emission levels shall not exceed more than 0.5 pounds per ton of acid produced, and sulfur trioxide emissions shall be limited to 0.2 pounds per ton acid produced.

(50.2) Section 6.11:

HYDROGEN SULFIDE LIMITATION. No person shall cause or permit the emission into the atmosphere from any new or existing source of hydrogen sulfide in such manner and amounts that the concentrations thereof at the stack exceed a concentration of 160 parts per million by volume for a maximum period of 2 minutes at any time.

(51.13) Section 6.12:

OPEN BURNING

(A) No person shall dispose of refuse by open burning, or cause, suffer, allow, or permit open burning of refuse, unless a permit therefore has been obtained from the Director.

(a) Any person required by this section to secure a Refuse-Burning Permit may apply for a continuing permit which, when issued, shall authorize the burning of combustible refuse during the period covered thereby, such period not to exceed one (1) year.

(B) The open burning of refuse may be permitted when it can be shown by a person that such open burning is absolutely necessary and in the public interest. Any person intending to engage in open burning of refuse shall file a request to do so with the Director. The application shall state the following but are not limited to:

(a) The name, address, and telephone number of the person submitting the application.

(b) The type of business or activity involved.

(c) A description of the proposed equipment and operating practices, the type, quantity, and composition and amount of air contaminants to be released to the atmosphere.

(d) The schedule of burning operations.

(e) The exact location or locations where such open burning may be carried on.

(f) Reason why no method other than open burning can be used for disposal of trade waste.

(g) Evidence that the proposed open burning has been approved by the East Chicago Fire Department.

(C) The Director may, in his discretion, impose other reasonable conditions necessary to prevent the creation of a nuisance.

(51.13) Section 6.13:

PROHIBITION OF SALVAGE OPERATIONS BY OPEN BURNING

No person shall conduct or cause or permit the conduct of a salvage operation by open burning.

(50.7) Section 6.14:

NUISANCE: ABATEMENT

(a) It is unlawful for any person to permit or cause the emission of such quantities of air contaminants from whatever source in such place or manner as to be detrimental to any person or to the public or to endanger the health, comfort, or safety of any person or the public, or in such manner as to cause or have a tendency to cause injury or damage to property or business. Each day wherein a violation of this section occurs shall constitute a a separate offense. Any act or emission of air contaminants from any single or multiple source in violation or excess of the limitations established in this ordinance shall be unlawful, and may be ordered abated by the Director. Such abatement may be in addition to the fines and penalties herein provided.

(b) It shall be unlawful for any person to cause or permit the handling, transporting, or disposition of any substance or material which is likely to be scattered by the wind, or is susceptible to being wind-borne, without taking reasonable precautions or measures to minimize atmospheric pollution. It shall be unlawful for any person to operate or maintain, or cause to be operated or maintained, any premises, open area, right of way, storage pile of materials, or vehicle, or construction, alteration, demolition, or wrecking operation, or any other enterprise which involves any material or substance likely to be scattered by the wind, or susceptible to being wind-borne, without taking reasonable precautions or measures to minimize atmospheric pollution. No person shall maintain or conduct, or cause to be maintained or conducted, any parking lot, or automobile and/or truck sales lot, or use any roadway unless such lot or roadway is maintained in such manner as to minimize atmospheric pollution.

(c) Nothing in any section of this ordinance relating to regulation of emission of air contaminants shall in any manner be construed as authorizing or legalizing the erection or maintenance of a nuisance.

(7.0) Section 6.15:

BREAKDOWN OF EQUIPMENT: Emissions exceeding any of the limits established in Article VI as a direct result of upset conditions in or breakdown of any process, fuel-burning, refuse-burning or control equipment or related operating equipment shall not be deemed to be in violation of Article VI provided that the owner or operator immediately advises the Director of the circumstances and outlines a corrective program acceptable to the Director.

(2.0) Section 6.16:

CIRCUMVENTION: No person shall build, erect, install or use any article, machine equipment or other contrivance, the sole purpose of which is to dilute or conceal an emission without resulting in a reduction in the total release of air contaminants to the atmosphere. Increase in stack height or constriction so as to increase stack exit velocity of gases shall not constitute a violation of this section.

(13.0) Section 6.17:

DUTY TO REPORT DISCONTINUANCE OR DISMANTLEMENT

It shall be the duty of any person responsible for any discontinued or dismantled fuel-burning, combustion or process equipment or device coming under the jurisdiction of the permits or fees provisions of this chapter to report to the Department within thirty (30) days the permanent discontinuance or dismantlement of such equipment or device.

ARTICLE VII

(8.0) EPISODE ALERT PROVISIONS

(8.0) Section 7.1:

ALERT PROVISIONS. Whenever atmospheric and pollution conditions create circumstances which may cause acute harmful health effects, the Director shall implement The State of Indiana Air Pollution Episode Alert Plan, which sets the standard for ambient air quality concentration for suspended particulate matter and sulfur dioxide for air pollution episode alert plan levels, as promulgated by the State of Indiana Air Pollution Control Board, as amended from time-to-time. The Director is hereby empowered to adopt such plans as may be necessitated in co-operation with appropriate State and Federal authorities for the purpose of eliminating the circumstances tending to cause acute harmful health effects as aforesaid, including but not limited to, the implementation of an air pollution watch, and alert procedure, and an emergency procedure.

ARTICLE VIII

(12.0) INTERNAL COMBUSTION ENGINES

(12.0) Section 8.1:

INTERNAL COMBUSTION ENGINE LIMITS: No person shall operate, or cause to be operated, upon any street, highway, public place or private premises within the City of East Chicago, any internal combustion engines, while stationary or moving, which emit from any source of emission whatsoever any air contaminant for a period or periods aggregating more than three minutes in any one hour which is:

(a) As dark or darker than in shade is that designated as No. 2 on the Ringelmann Chart, as published by the United States Bureau of Mines or

(b) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subsection (a) of this section.

ARTICLE IX

(2.0) CO-ORDINATION OF DEPARTMENTS

(3.0) Section 9.1:

ISSUANCE OF PERMITS: No permit for the erection, construction or alteration of any building, plant, or structure, related in any manner to fuel-burning equipment, or processing equipment, which may be a source of air contaminants, shall be issued by the building commissioner or by any department, bureau, division, officer, or employee of the city until the Director of the Air Quality Control Department has issued an installation permit covering the equipment under his jurisdiction to be used in the building plant, or structure as provided within this ordinance.

(2.0) Section 9.2:

CO-ORDINATION: It shall be the duty of the various departments, bureaus, divisions, officers, and employees of the city, having charge of the inspection of the premises in which such equipment is located, to co-operate with the Director to determine that the execution of the work so authorized by said permit shall be done in conformity with the approved plans and specifications fixed by the Director.

ARTICLE X

(9.0) SAMPLING AND TESTING

(9.0) Section 10.1:
(15.0)

AUTHORITY TO CONDUCT TESTS

(a) The Director is hereby authorized to conduct, or cause to be conducted, a test or tests of any new or existing process, fuel-burning, refuse-burning, or control equipment the operation of which, in his opinion, may result in emissions in excess of the limitations in this ordinance or when, in his judgment, there is evidence that emissions from any such equipment are exceeding any emission limitation prescribed in this ordinance. Upon notification by the Director that emission tests are considered necessary, a person may elect to conduct such tests himself. In this event, the person shall notify the Director of this decision and of the time and date of such testing. All tests so conducted shall be in manner acceptable to the Director, and a complete detailed test report of such tests shall be submitted to the Director. The Director may stipulate that a representative of his office be present during the conduct of such tests and may stipulate a reasonable time limit for the completion of such tests.

(b) Nothing in this section concerning tests conducted by and paid for by any person or his authorized agent shall be deemed to abridge the rights of the Director or his representatives to conduct separate or additional tests of any process, fuel-burning, or control equipment on behalf of the City at a reasonable time and at the City's expense except as provided in Section 10.3 below.

(9.0) Section 10.2:

TEST FACILITIES AND ACCESS. It shall be the responsibility of the owner or operator of the operation tested to provide, at his expense, reasonable and necessary openings in the system or stack, and safe and easy access thereto, to permit technically valid samples and measurements to be taken. All new sources of air contaminants erected after the effective date of this ordinance may be required by the Director to provide adequate openings in the system or stack, and safe and easy access thereto, to permit technically valid measurements and samples to be taken. If a person refuses to supply test openings, access scaffolding, and other pertinent facilities requested for the purpose of conducting valid emission tests by the Director, the Director shall notify such person to show cause before the Director on a day certain, not less than ten (10) nor more than twenty (20) days from the date of notice, why the equipment should not be sealed.

(9.0) Section 10.3:

TEST COSTS: If emission tests conducted as a result of procedures outlined in Section 10.1 substantiates that a violation exists, the person or persons liable for the violation shall be responsible for paying all attendant costs for conducting said tests. If said tests do not substantiate that a violation exists, then the City shall be responsible for paying all attendant costs for conducting said tests. This latter condition shall not obviate the owner's or operator's responsibilities set forth in Section 10.2. Provided, however, if the person liable elects to conduct his own stack emission tests as stipulated in Section 6.8 and Section 10.1, the person so electing shall pay for these tests irrespective of their outcome.

(9.0) Section 10.4:

STACK EMISSION TEST METHOD. Stack emission tests shall be undertaken by generally recognized standards or methods of measurements. The latest of the following, "The A.S.M.E. Test Code for Determining Dust Concentrations in Gas Streams," and the "Los Angeles County Source Testing Manual" shall be used, but these may be modified or adjusted by the Director to suit specific sampling conditions or needs based upon good practice, judgment, and experience.

(9.0) Section 10.5:

ANALYSES OF FUELS. The Director at any time may request samples of fuels being used, in any operation, for analyses.

(9.0) Section 10.6:

TAMPERING WITH TESTING DEVICES. No person except duly authorized officers or employees of the City, shall touch, remove, destroy, molest, or mutilate any testing device or contents owned or used by the City for testing smoke, dust, or other air contaminants. Any such person shall be subject to the fines and penalties hereinafter provided.

ARTICLE XI

(5.0) VARIANCES

Section 11.1:

VARIANCE CLAUSE

(A) Where emission sources in existence prior to the adoption of this ordinance and not subject to existing Air Pollution Control agreements do not meet the emission limitations noted in Article VI above, then a program to meet the emission limitations stipulated shall be developed and offered to the Director by the owner of the equipment causing the emission. This program shall be submitted upon the request of and within such times as shall be fixed by the Director, and after said program has been approved by the Director, the owner of the equipment causing the emission shall not be in violation of this ordinance so long as said program is observed. In evaluating such a program of improvement, the Director shall take into consideration the following factors.

(a) Action taken to control atmospheric pollution within emission limitations in effect prior to this ordinance.

(b) Efficiency of any existing control equipment relative to that which would be required to meet emission limitations of this ordinance.

(c) Temporary interim control measures intended to minimize existing pollution levels.

(d) The effect the source of emission has on ambient air quality generally or in the immediate vicinity of the source.

(e) The degree of control in relation to other similar facilities which produce air pollution.

(f) The age and prospective life of the facility in question.

(B) Reports consisting of information required by the Director indicating the progress of these programs shall be submitted annually to the Director by the owner of the equipment causing the emission in question. If progress of the program is deemed by the Director to be unsatisfactory, the Director may suspend the program and issue a violation notice. In the event the owner of the equipment causing the emission and the Director cannot evolve a mutually acceptable program of improvement, the matter shall be referred to the Advisory and Appeals Board for resolution and determination of an acceptable program. In making their determination, the Board shall also take into consideration the factors noted in (a) through (f) above.

Section 11.2:

VARIANCE ON EXPERIMENTAL PROCEDURES

Experimental procedures on new or existing process, fuel-burning, refuse-burning, or other equipment, and or devices for use in such manner as to emit atmospheric pollutants, may be conducted upon receipt of the written approval of the Director. The Director may grant such written approval to conduct experimental procedures for any period of time not to exceed one year and he may in addition to said time limitation impose such other conditions and limitations on the conduct of said experimental procedures that he deems reasonable to minimize the effects of the experimental procedure on the ambient air. During the period of time said experimental procedures are conducted with the approval of the Director, the provisions and limitations of Article VI herein shall not apply.

Section 11.3:

CERTAIN FIRES PERMITTED: Section 6.12 shall not apply to smoke from fires set by any person if such fire is set with the written permission of the Director. The decision of the Director to allow certain fires will be based on the necessity of a public officer in the performance of his duties, for the prevention of a fire hazard or the instruction of public or private employees in the methods of fighting fire.

ARTICLE XII

(2.0) SEALING

Section 12.1:

SEALING: After previous notification of three or more violations of this ordinance within a 12-month period, in respect to the emission of air contaminants, a violator shall be notified by registered mail to show cause before the Director within 10 days why the offending equipment shall not be sealed. The notice shall be directed to the last address of the person to be notified or if the person or his whereabouts is unknown, then the notice shall be posted on or near the premises at which the violations have occurred. If upon the hearing, at which the violator or his agent or attorney may appear and be heard, the Director finds that adequate corrective measures have not been taken, he shall seal the equipment until such time as corrective measures are taken. The decision may be appealed to the Advisory and Appeal Board, and such appeal shall stay the sealing until the Board renders a decision. It shall be unlawful for any person to break a seal that has been duly affixed by the Director or his authorized representative unless authorized in writing by the Director to do so.

ARTICLE XIII

(15.0) RIGHT OF ENTRY

Section 13.1:

RIGHT OF ENTRY FOR INSPECTION: Any person who in any manner, hinders, obstructs, delays, resists, prevents, or in any manner interferes or attempts to interfere with the Director or his authorized representatives in the performance of any duty enjoined, or shall refuse to permit the Director or such persons to perform their duty by refusing them, or either of them, entrance at reasonable hours to any premises in which the provisions of this ordinance are being violated or are suspected of being violated, or refuse to permit the inspection or examination of such premises for the purposes of the enforcement of this ordinance, shall be subject to the fines and penalties hereinafter provided.

ARTICLE XIV

(2.0) LIABILITY

Section 14.1:

PERSONS LIABLE: All persons owning, operating, or in charge or control of any equipment or premises who shall cause, suffer, allow, permit, or participate in any violation of this ordinance shall be individually and collectively liable for any penalties imposed by this ordinance. This liability shall include any person who shall refuse to comply with or who shall assist in the violation of any of the provisions of this ordinance.

ARTICLE XV

(15.0) PENALTIES FOR VIOLATIONS

Section 15.1:

PENALTIES

Any person who shall violate any of the provisions of this ordinance shall upon conviction thereof, pay a fine of not less than fifty dollars ($50.00) nor more than three hundred dollars ($300.00) for the first offense, and not less than three hundred dollars ($300.00) nor more than one thousand dollars ($1,000.00) for the second and each subsequent offense, in any 180-day period to which may be added imprisonment for a term not to exceed one hundred and eighty (180) days. Each day's violation shall constitute a separate offense and an unlawful emission from each chimney, smoke stack, open fire or other point of discharge, shall also constitute a separate offense. A separate and distinct offense shall be regarded as committed each day on which such person shall continue or permit any such violation to exist after notification thereof by the Director.

Any abatement provided for in Article VI shall be in addition to any penalties prescribed in this section.

ARTICLE XVI

(2.0) PARTY TO CLAIMS OR ACTIONS

Section 16.1:

CLAIMS OR ACTIONS

All claims or actions filed by or against the Director or the Air Quality Control Advisory and Appeal Board shall be brought in the name of or filed against the City of East Chicago, Indiana, a municipal corporation.

ARTICLE XVII

(15.0) ALTERNATIVE PROCEDURE FOR VIOLATIONS

Section 17.1:

VIOLATION NOTICES: If the Director has reason to believe an emission from any source violates the provisions of Article VI hereof, he may instead of acting under Article XV issue to the owner or operator of the source in question a violation notice.

(A) Any person who is issued a violation notice may, within fifteen (15) days from the date of receipt of said notice, submit data to the Director indicating reasons why he does not believe he was in violation of Article VI. The Director shall review the data submitted and within Fifteen (15) days affirm or withdraw the violation notice by informing, in writing, the person receiving said notice of the decision to affirm or withdraw. In the case where such data is not submitted to the Director within the 15 days stipulated, the violation shall be considered still in force and affirmed.

(B) In the case of a violation of Article VI, the person cited, within ten (10) days of receipt of the Director's decision to affirm the violation notice as provided for in Section 14, (or within ten days of a decision of the Advisory and Appeals Board, should appeal to be taken from the Director's decision to affirm the violation notice), may ask that emission tests be performed to determine the extent of emissions from the operation which is the subject of the particulate emission violation notice. If the emission tests indicate that the total amount of particulate matter exceeds the maximum allowable emission standard applicable to the operation under Article VI, the violation notice shall be considered substantiated. If the emission tests indicate that the total amount of particulate matter is equal to or less than the emission standard applicable to the operation under Article VI, then the violation notice shall be considered void.

ARTICLE XVIII

(2.0) SEVERABILITY

Section 18.1:

SEVERABILITY: If any clause, sentence, paragraph or part of this ordinance, or the application thereof to any person, firm, corporation or circumstances, shall for any reason, be adjudged by a Court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this ordinance, and the application of such provision to other persons, firms, corporations or circumstances, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person, firm, corporation or circumstances involved. It is hereby declared to be the legislative intent of this body that this ordinance would have been adopted had such invalid provisions not been included.

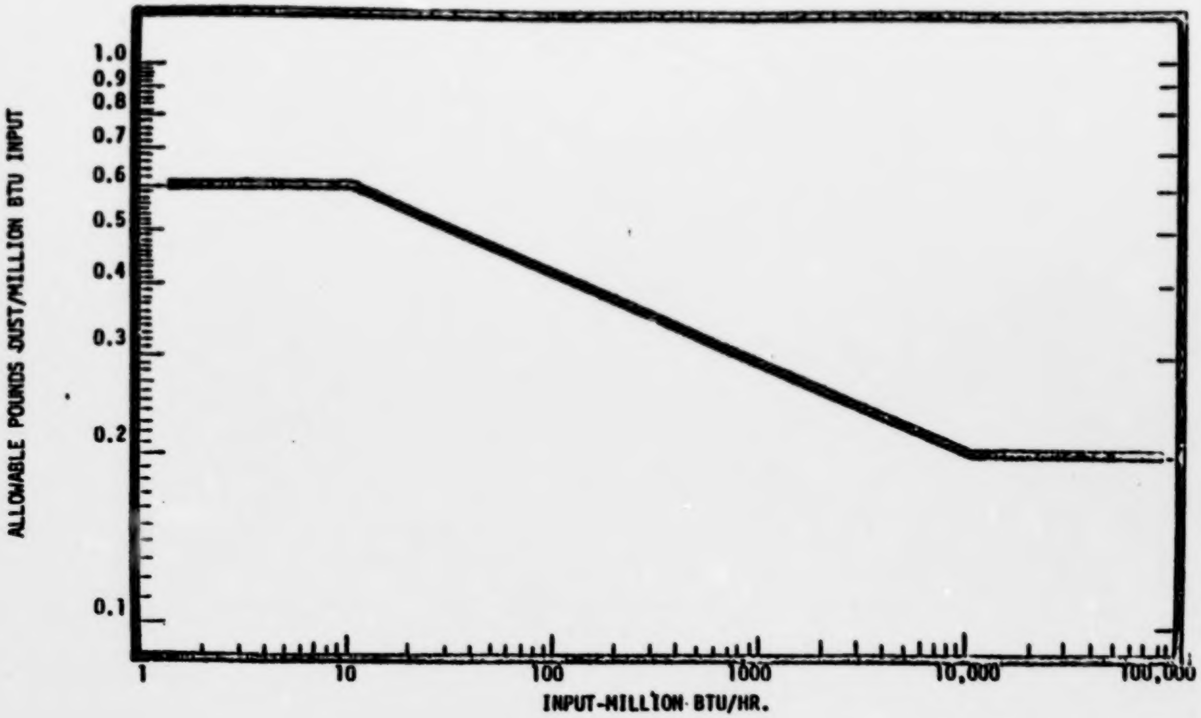
ARTICLE XIX

(2.0) REPEAL CLAUSE

Section 19.1:

REPEAL CLAUSE

All laws heretofore passed by the Common Council of the City of East Chicago dealing with the problem of air pollution, and specifically including an ordinance entitled "Bureau of Air Pollution," Chapter 24 1-2401 - 1-2408 and "Air Pollution" Chapter 7 5-701 and 5-720 and 5-799 are hereby repealed.



PARTICULATE EMISSION LIMITS

FIGURE 1

TABLE I

Allowable Rate of Emission Based on Process Weight Rate[1]

Process Weight Rate		Rate of Emission	Process Weight Rate		Rate of Emission
Lbs/Hr	Tons/Hr	Lbs/Hr	Lbs/Hr	Tons/Hr	Lbs/Hr
100	0.05	0.551	16,000	8.00	16.5
200	0.10	0.877	18,000	9.00	17.9
400	0.20	1.40	20,000	10.00	19.2
600	0.30	1.83	30,000	15.00	25.2
800	0.40	2.22	40,000	20.00	30.5
1,000	0.50	2.58	50,000	25.00	35.4
1,500	0.75	3.38	60,000	30.00	40.0
2,000	1.00	4.10	70,000	35.00	41.3
2,500	1.25	4.76	80,000	40.00	42.5
3,000	1.50	5.38	90,000	45.00	43.6
3,500	1.75	5.96	100,000	50.00	44.6
4,000	2.00	6.52	120,000	60.00	46.3
5,000	2.50	7.58	140,000	70.00	47.8
6,000	3.00	8.56	160,000	80.00	49.0
7,000	3.50	9.49	200,000	100.00	51.2
8,000	4.00	10.40	1,000,000	500.00	69.0
9,000	4.50	11.20	2,000,000	1,000.00	77.6
10,000	5.00	12.00	6,000,000	3,000.00	92.7
12,000	6.00	13.60			

[1] Interpolation of the data in this table for process weight rates up to 60,000 lb/hr shall be accomplished by use of the equation $E = 4.10\ P^{0.67}$, and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lb/hr shall be accomplished by use of the equation:

$E = 55.0\ P^{0.11} - 40$, where E = rate of emission in lb/hr and
P = process weight in tons/hr.

For those processes whose weight exceeds 200 tons/hour, the maximum allowable emission may exceed that shown in Table 1, provided that the concentration of particulate matter in the discharge gases to the atmosphere is less than 0.10 pounds per 1,000 pounds of gases.

AIR QUALITY CONTROL ORDINANCE

FOR

EVANSVILLE, INDIANA

CHAPTER 941

AIR QUALITY CONTROL

(2.0) ## TITLE ONE - General Provisions

(2.0) 941.101 INTRODUCTORY PROVISIONS.

(a) WHEREAS, there has been an increase in urbanization, industrialization and commercial growth in and around the City of Evansville, Indiana which increase has resulted in the increased emission of air pollutants within the corporate limits of the City of Evansville, Indiana and four (4) miles beyond the corporate city limits; and

(b) WHEREAS, the detrimental effects of the increased and frequently excessive emission of air pollutants on the public health, welfare, and comfort of the citizens of the City of Evansville requires the adoption of a comprehensive and integrated plan to minimize the pollution of the air and control air quality, and

(c) WHEREAS, it is desirable to adopt appropriate regulations to prevent and reduce air pollution caused by odor, dust, fumes, gas, mist, smoke, vapor, sound, noise, light, heat, glare, vibration, and other pollutants or any combination thereof the emission of which is detrimental to the health, welfare or comfort of the residents of the City, the Council, therefore, enacts this ordinance on Air Quality Control.

(2.0) 941.102 SHORT TITLE.

This chapter shall be known and cited as the "Air Quality Control Chapter."

(2.0) 941.103 PURPOSE.

The purpose of this chapter is to control air pollution within the City of Evansville, Indiana and four (4) miles beyond the corporate limits thereof by establishing the Air Pollution Control Department under the Board of Public Works of the City of Evansville, Indiana and prescribing the duties of the Chief of the Air Pollution Control Department; empowering investigation, punishment and abatement of violations of this chapter; providing for the establishment and enforcement of rules and regulations; providing for an Air Pollution Control Board; providing for registration of air pollution sources; requiring permits for the installation, construction, addition to, alteration, and use of process, fuel-burning, refuse-burning, and control equipment and for fees for the same; providing for inspections and tests of process, fuel-burning, refuse-burning, and control equipment and for the issuance of certificates of operation and for fees therefor; establishing limitations upon the emission of air pollutants; declaring emissions which do not meet such limitations to be unlawful and a public nuisance; prohibiting certain acts causing air pollution; providing for fines and penalties for violation of the provisions of this ordinance; and providing just and adequate means by which the provisions of this ordinance may be executed.

(1.0) 941.104 DEFINITION OF TERMS.

The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this article, unless a different meaning is clearly indicated.

(a) "Air Contaminant," any smoke, soot, fly ash, dust, cinders, dirt, injurious or objectionable amounts of acids, fumes, oxides, gases, vapors, odors, toxic or radioactive substances, waste, particulate, solid, liquid or gaseous matter, sound, noise, light, heat, glare, vibration, concussion, or any other materials in the outdoor atmosphere.

(b) "Air Pollution," the presence in the outdoor atmosphere of one or more contaminants or combinations thereof in such quantities and of such duration that they are, or may tend to be, injurious to human, plant, or animal life, or property, or that interfere or may tend to interfere with the comfortable enjoyment of life or property or the conduct of business.

(c) "ASME, APS-1-1966," The American Society of Mechanical Engineers, Air Pollution Standard No. 1, established in 1966.

(d) "ASTM," The American Society for Testing Materials.

(e) "Ashes," cinders, fly ash or any other solid material resulting from combustion, including unburned or partially burned combustibles.

(f) "Apartment," suit of rooms or a single room of occupancy.

(g) "Air Pollution Control Board," the Board created by this chapter to act as the Air Pollution Control Advisory and Appeal Board to the Chief and the Board of Public Works.

(h) "Certificate of Operation," a certificate issued by the Chief authorizing the use of any process, fuel-burning, refuse-burning, or control equipment for the period indicated.

(i) "City," City of Evansville, Indiana and four (4) miles beyond the corporate city limits thereof.

(j) "Chief," Chief of the Air Pollution Control Department of the City of Evansville, Indiana.

(k) "Cleaning Fires," act of removing ashes from the fuel bed or furnace.

(l) "Combustible Refuse," any combustible waste material.

(m) "Control Equipment," any equipment which has the function of controlling process, fuel-burning, or refuse-burning equipment and thus reducing the creation of, or the emission of, air contaminants to the atmosphere, or both.

(n) "Council," Common Council of the City of Evansville, Indiana.

(o) "Department," the Air Pollution Control Department of the Board of Public Works of the City of Evansville, Indiana.

(p) "Domestic Heating Plant," a plant generating heat for a single family residence, or for two residences either in duplex or double house form, or for multiple-dwelling units in which such plant serves fewer than three apartments. This term also includes hot water heaters, stoves, and space-heaters used in connection with the foregoing establishments; provided, however, that like equipment used in multiple-dwelling units other than those as herein described, or like equipment used in permanent buildings of commercial or industrial establishments, is not to be construed as included under this designation.

(q) "Emission," (1) When used as a verb, the act of passing one or more air contaminants into the atmosphere; (2) when used as a noun, one or more air contaminants passed into the atmosphere.

(r) "Employee," all employees, other than the Chief, of the Department.

(s) "Fines," any particle which will pass through a screen having openings the diameters of which are one hundred and thirty-two one thousandths of one inch (0.132") or which will pass through a U.S. Standard Sieve No. 6.

(t) "Fuel-burning Equipment," any equipment, device, or contrivance used for the burning of any fuel, and all appurtenances thereto, including ducts, breechings, control equipment, fuel-feeding equipment, ash-removal equipment, combustion controls, stacks, chimneys, etc., used for indirect heating in which the material being heated is not contacted by, and adds no substance to, the products of combustion. Such equipment typically includes, but is not limited to, equipment used for heating water to boiling; raising steam, or super-heating steam; heating air as in a warm air furnace; furnishing process heat indirectly through its transfer by fluids.

(u) "Hand-fired Fuel-burning Equipment," fuel-burning equipment in which fuel is manually introduced directly into the combustion chamber.

(v) "Incinerators," all devices intended or used for the destruction of waste materials or other combustible refuse by burning.

(w) "Installation Permit," a permit issued by the Chief authorizing the construction, installation, alteration, or repair of any process, fuel-burning, refuse-burning, or control equipment in accordance with plans and specifications approved by the Chief.

(x) "Mayor," the Mayor of the City of Evansville, Indiana.

(y) "Mechanical Firing Device," any device used in connection with any process, fuel-burning, or refuse-burning equipment which device introduces fuel from outside the equipment into the zone of combustion thereof.

(z) "Opacity," state of a substance which renders it partially or wholly impervious to the rays of light. Opacity as used in this chapter refers to the obscuration of an observer's view.

(aa) "Open Burning," any fire from which the products of combustion are emitted directly into the outdoor atmosphere without passing through a stack.

(bb) "Particulate Matter," material other than uncombined water which is suspended in air or other gases as a liquid or solid.

(cc) "Plant System," an integrated system designed to accomplish a single process or single phase of manufacturing made up of two or more pieces of equipment or devices.

(dd) "Pulverized Fuel-burning Equipment," specifically constructed equipment for grinding coal to fine particles and burning in a special pulverized fuel-burning furnace.

(ee) "Person," any individual, partnership, co-partnership, firm, company, corporation, association, joint-stock company, trust, estate, or municipality or the legal representative or agent thereof.

(ff) "Process Equipment," any equipment, device, or contrivance for changing any materials whatever or for storage or handling of any materials, and all appurtenances thereto, including ducts, stacks, etc., the use or existence of which may cause any discharge of air pollutants into the outdoor atmosphere, but not including that equipment specifically defined as fuel-burning equipment or refuse-burning equipment in this chapter.

(gg) "Process Weight," the total amount of all material introduced into an industrial operation, including solid fuels, but excluding liquid fuels and gaseous fuels when these are used solely as fuels, and excluding air introduced for purposes of combustion.

(hh) "Process Weight Per Hour," (1) For continuous or long-term operation: The total process weight for the entire period of operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof. (2) For batch operation: The total process weight for a period which covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such period.

(ii) "Refuse-burning Equipment," any incinerator, equipment, device, or contrivance used for the destruction of refuse, and/or other combustible wastes by burning, and all appurtenances thereto.

(jj) "Salvage Operations," any operation conducted in whole or in part for the salvaging or reclaiming of any product or material.

(kk) "Seal For Sealing Equipment or Premises," a device installed by the Chief so as to prevent the use of the process, fuel-burning, refuse-burning, or control equipment or premises causing the violation or from which violations of this ordinance originate.

(ll) "Smoke," small gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon, ash, and other combustible materials.

(mm) "Stack," duct, chimney, flue, conduit, or opening arranged for the emission into the outdoor atmosphere of air pollutants.

(2.0) TITLE TWO - Administrative Organization

(2.0) 941.201 GENERAL.

(a) This chapter shall be effective territorially throughout the City of Evansville, Indiana and four (4) miles beyond the corporate city limits.

(b) This chapter shall be administered and enforced by the Air Pollution Control Department, headed by a Chief, under the Board of Public Works of the City of Evansville, Indiana.

(2.0) 941.202 CHIEF OF AIR POLLUTION CONTROL DEPARTMENT.

(a) There is hereby created the position under the Board of Public Works of Chief of the Air Pollution Control Department. He shall be appointed by the Mayor and shall serve at the will of the Mayor.

(b) The Chief shall perform such duties as may be required of him by the Board of Public Works relative to air pollution control. He shall have control of all matters and things pertaining to the work of the Department and shall supervise the execution of all laws, rules, and regulations pertaining to air pollution as provided in this Chapter. He shall sit as an ex-officio member without a vote of the Board of Public Works when that Board is considering matters relating to air pollution.

(c) The Chief shall be a graduate of an engineering institution or college, qualified by technical training, and have at least five (5) years experience in the theory and practice of construction and operation of furnaces, combustion devices, or in the theory and practice of air pollution control, and shall be qualified by education and experience to co-operate with scientific, educational and civic organizations interested in air pollution control.

(d) The Chief shall have the following powers and duties:

(1) Supervise the execution of all laws, ordinances, rules and regulations pertaining to air pollution as provided in this chapter and in all rules and regulations issued pursuant to this chapter.

(2) Institute complaints against persons violating any provision of this chapter and institute, in conjunction with the office of the City Attorney of the City, necessary legal proceedings to prosecute violations of this chapter and compel the prevention and abatement of air pollution or nuisances arising therefrom.

(3) Examine and approve or disapprove the plans for fuel and refuse-burning equipment, process equipment, and control equipment to be installed, constructed, reconstructed, or substantially repaired, altered or added to.

(4) Make inspections and tests of existing and newly installed, constructed, reconstructed, substantially repaired or altered fuel or refuse-burning equipment, process equipment, and control equipment.

(5) Investigate complaints of violations of this chapter and make inspections and observations of air pollution conditions, record and maintain records of such investigations, complaints, inspections, and observations.

(6) Approve or reject applications for permits, and administer the issuance of permits, certificates of operation, notices or other matters required under the provisions of this chapter.

(7) Prepare and present to the Air Pollution Control Board proposals and recommendations for additions or revisions of this chapter, or any other regulation pertaining to air pollution abatement and, if directed by the Air Pollution Control Board, submit such proposals and recommendations to the Board of Public Works for further action.

(8) Encourage voluntary co-operation by persons or groups of persons in the preservation and restoration of the purity of the outdoor atmosphere.

(9) Collect and disseminate within the City information on air pollution control.

(10) Work with planning agencies to co-ordinate activities under the provisions of this chapter and to foster the best possible management of air resources.

(11) Co-operate and work with federal, interstate, state, county, municipal, and other agencies concerned with air pollution, particularly in the field of technical studies, abatement programs, and public complaints.

(12) Institute abatement proceedings at the request of appropriate authorities from other jurisdictions if such other jurisdictions co-operate in the same manner with the City under reciprocal agreements or practices.

(13) Formulate rules and regulations pertaining to the administration of the Air Pollution Control Department. Said rules and regulations shall be submitted for approval to the Air Pollution Control Board and, when appropriate, to the Board of Public Works.

(14) Prepare the annual budget for the Department, and, after approval by the Board, submit such budget to the Board of Public Works for review and amendment prior to submission to the Council.

(15) Do such other acts as may be required by the Air Pollution Control Board or the Board of Public Works to effectuate the purposes of this chapter.

(9.0) 941.203 AIR POLLUTION INSPECTORS.

(a) Air Pollution Inspectors shall be employees of the Air Pollution Control Department and qualified at the time of employment by technical training in the theory and practice of the construction and operation of combustion and process equipment or in the theory and practice of smoke abatement and air pollution control, or be so trained under direction of the Chief.

(b) Air Pollution inspectors shall be appointed by the Mayor after conferences with the Board of Public Works and the Chief and such inspectors shall be subject to such rules, regulations and conditions of employment as shall be determined by the Board of Public Works.

(c) The duties of the inspectors shall be to carry out the directions of the Chief in all matters relating to the enforcement of this chapter, and to aid and assist the Chief in the efficient discharge of his duties.

(d) No person employed in the Air Pollution Control Department shall be directly or indirectly interested in the manufacture, lease, or sale of fuel, combustion or process equipment or gas cleaning devices, or other smoke abatement or air pollution control equipment, or the apparatus or devices connected therewith or any extensions thereof.

(16.0) 941.204 AIR POLLUTION CONTROL BOARD.

(a) An Air Pollution Control Board shall be appointed by the Mayor from persons residing within the area covered by this chapter. Vacancies on the Board to fill unexpired terms shall likewise be appointed by the Mayor. This Board shall study the problem of air pollution within the corporate limits of the City of Evansville, Indiana, and four (4) miles beyond the corporate city limits and shall, from time-to-time, recommend to the Board of Public Works appropriate means of air pollution abatement, including any additions or revisions to this chapter.

(b) The Board shall consist of seven (7) members, all of whom must be residents of the area covered by provisions of this chapter. One (1) member shall be a professional engineer, one (1) member shall be a doctor of medicine, one (1) member shall be an attorney-at-law, one (1) member shall be a chemist, and three (3) members shall be citizens representing separate areas of interest, namely, manufacturing, commercial and general. No member of said Board shall hold any elective public office.

Initial appointments shall be made in the following manner:

(1) Two (2) members shall be appointed for a term of one (1) year.

(2) Two (2) members shall be appointed for a term of two (2) years.

(3) Two (2) members shall be appointed for a term of three (3) years.

(4) One (1) member shall be appointed for a term of four (4) years.

The terms shall expire on the first day of January of the first, second, or third year, respectively, following their appointment. Thereafter, as the terms expire each new appointment shall be for a term of four (4) years. Appointment to fill resignations or vacancies shall be for the unexpired term remaining of the member being replaced. A member is eligible for reappointment. Members whose terms of appointment shall have expired shall remain in office until such time as successors shall have been appointed and qualified. No more than one appointee or member of the Board shall be employed by the same employer.

(c) The Board shall elect a chairman and vice chairman. The Board shall appoint an employee of the Air Pollution Control Department to serve as secretary of the Board. A quorum shall consist of a majority of the voting members of the Board. Official action may not be taken by the Board except upon a majority vote of the members present. Members of the Board shall serve without compensation. The Chief shall be an ex-officio member and advisor to the Board without voting power.

(d) The Air Pollution Control Board shall hold a regular meeting once a month and special meetings at such additional times as may be called by the chairman or vice chairman. A special meeting shall be called upon request of at least three (3) members of the Air Pollution Control Board. The Air Pollution Control Board shall keep minutes of its proceedings which shall record the official actions of the Air Pollution Control Board and the vote of each member thereon.

(e) The Air Pollution Control Board shall act as a Board of Review of all official decisions of the Chief regarding air pollution in accordance with the procedures set forth in this chapter.

(16.0) 941.205 MANNER OF TAKING APPEALS.

(a) The Air Pollution Control Board is hereby vested with the following jurisdiction and authority:

(1) To decide appeals from any decision, ruling, regulation, determination or order made by the Chief under this chapter, or failure to act upon any application within a reasonable period of time in the manner and subject to the standards hereinafter set out.

(2) To act upon requests for variances in the manner established by Title Eight (8).

(3) To decide all matters referred to it or upon which it is required to pass under this chapter.

(b) All hearings conducted by the Board shall be open to the public. Any person affected by any matter before the Board may appear and be heard at a hearing. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if he is absent or failing to vote, indicating such fact and shall also keep records of its hearings and other official actions. Every order, requirement, decision or determination of the Board shall be filed in the office of the Air Pollution Control Department of the City and shall be a public record.

(c) Any person taking exception to and affected by any decision, ruling, requirement, rule, regulation or order of the Chief, or failure to act upon request within a reasonable period of time, may take an appeal to the Board in accordance with the procedures of this chapter. Such appeal shall be taken within thirty (30) days after the issuance of such decision, ruling, requirement, rule, regulation or order, or failure to act upon a proper application. Appeals to the Board shall be initiated by filing with the Chief a notice of appeal directed to the Board, specifying the ground thereof and the relief prayed for. A fee of twenty-five ($25.00) shall be posted by the appellant at the time of the filing of the appeal and shall not be refunded. The Chief shall forthwith furnish to the Board all papers and other materials relating to the case. The Board, not less than ten (10) days after the date of filing of the appeal, shall set a date for a hearing thereon, and shall give notice thereof by mail to all interested parties. The Board may in its discretion grant continuances. Such an appeal shall act as a stay of the decision, ruling, requirement, rule, regulation, or order in question until the Board has taken final action on the appeal. At the hearing an affected party may appear in person or by attorney, and present evidence, both written and oral, pertinent to the questions and issues involved, and may examine and cross-examine witnesses. The Board, after the hearing, shall affirm, modify or reverse the decision, ruling, requirement, rule, regulation or order of the Chief, or order him to act. The decision of the Board shall be final as to all parties and persons.

(d) In the event any party aggrieved by a final decision of the Board wishes to take exception thereto such party may initiate proceedings for judicial review of the decision of the Board in accordance with the procedures set forth in the Indiana Statute on "Appeals From Council or City Boards" (Acts 1933, Chapter 255, Sections 1-9, page 1109, Burns' Section 48-4501 through 48-4509) including all amendments thereto.

(e) Upon the filing of a complaint on appeal against any final decision of the Board in a court of competent jurisdiction, the Board shall cause to be prepared and shall furnish a transcript of the record of the proceedings before the Board to any person interested as a party to such hearing upon the payment of seventy-five (75) cents per page for each carbon copy thereof. However, the charges of any part of such transcript ordered or paid for previous to the writing of the original record shall be fifty (50) cents per page.

(f) The Board shall not be required to ceritfy any record or file any answer or otherwise appear in any proceeding for judicial review unless the party filing the appeal deposits the sum of seventy-five (75) cents per page as payment for the costs of preparation of a transcript. The fee of seventy-five (75) cents per page shall include the cost of certification by the Board of the transcript. Failure on the part of the complainant on appeal to make such payment shall be grounds for dismissal of the action.

(3.0) (51.5) TITLE THREE - Installation Permit and Certificate of Operation For Non-domestic Heating Plants

941.301 APPLICATION REQUIRED.

No person shall construct, install, reconstruct, or alter any process, fuel-burning or refuse-burning equipment or control equipment pertaining thereto, which may be a source of air contaminants, for use within the City and four (4) miles beyond the corporate city limits until an application, including not less than two (2) sets of properly prepared plans or specifications, or both, of the process, fuel-burning, refuse-burning, or control equipment have been filed with and approved by the Chief of the Air Pollution Control Department; this in no way precludes relocation of equipment if such relocation or rearrangement does not increase the emission of air contaminants. In the event that such construction, installation, reconstruction or alteration of equipment referred to herein is undertaken in connection with any construction, alteration, or remodeling for which a building permit is required by the ordinance of the City, then the person undertaking such construction, alteration or remodeling shall obtain the approval of the Chief on all matters relating to equipment referred to herein prior to making application for a Building Permit from the Commissioner of Buildings. In such instances where Building Permits are required, no separate or additional charge or fee shall be imposed or collected for the approval of the Chief in connection with the application for approval required prior to application for a Building Permit. Where no Building Permit is required, the fee for the installation permit shall be as established by the Schedule of Fees in this Chapter. Applications for Building Permits for construction work includes provision for any process, fuel-burning or refuse-burning equipment or control equipment pertaining thereto not bearing the approval of the Chief shall be rejected by the Commissioner of Buildings until such approval is obtained.

941.302 CERTIFICATE OF OPERATION.

(a) No person shall operate or cause to be operated any process, fuel-burning, refuse-burning, or control equipment or any equipment pertaining thereto for which an installation permit was required or was issued or for which an installation permit would have been required if this chapter had been in effect prior to the installation, construction, or alteration of the equipment until an inspection has been made by the Chief and a certificate of operation issued. The person responsible for the installation, construction, or alteration of any process, fuel-burning, refuse-burning or control equipment for which an installation permit is required or would have been required shall notify the Chief when the work is completed and ready for final inspection. No equipment shall be operated for any other purpose or in any other manner than that for which a certificate of operation has been issued unless otherwise authorized in writing by the Chief. After it is demonstrated to the satisfaction of the Chief that the process, fuel-burning, refuse-burning, or control equipment can be operated in compliance with this chapter, a certificate of operation shall be issued by the Chief, valid for a period of two (2) years. Emission tests may be required by the Chief before issuance of a certificate of operation. Said certificate of operation shall be kept posted on or near the installation for which it was issued. The certificate of operation shall properly identify the equipment to which it pertains and shall specify the class of fuel, type of refuse, and type of raw materials used, if any, which may be used in connection with the operation of the equipment. Certificates of operation shall be issued in the name of the owner or operator of the equipment and shall apply only to the equipment described on the certificate. The certificate of operation shall remain in force until terminated by any of the following occurrences:

(1) Expiration of the period for which it was issued.

(2) Conviction of a violation of this chapter.

(3) Suspension of a variance previously granted under Title Eight (8) of this chapter.

Failure to operate successfully under test within the limitations and requirements of this chapter shall constitute sufficient grounds for ordering changes in the process, fuel-burning, refuse-burning, or control equipment or appurtenances before a certificate of operation will be granted. Operation of equipment for which a certificate of operation has been refused by the Chief shall constitute a violation of this chapter and shall subject the person so violating this chapter to the penalties imposed herein.

(b) Notwithstanding the provisions of 941.302 (a), if application for a certificate of operation has been made and the required inspection fee paid, it shall be lawful to use such equipment or device until receipt of such certificate or initial notification by the Chief of his refusal to grant such certificate. With respect to any equipment in operation on the effective date of this ordinance, application for certificates of operation shall be made within thirty (30) days following the effective date of this ordinance.

941.303 INFORMATION REQUIRED.

Applications for installation permits and certificates of operation shall show the form and dimensions of the process, fuel-burning, refuse-burning, or control equipment, together with the description and dimensions of the building or part thereof in which such process, fuel-burning, refuse-burning, or control equipment is to be located, including the means provided for admitting the air for combustion process; the character of the fuel to be used; the maximum quantity of such fuel to be burned per hour; the kind and amount of raw materials processed; the expected air contaminant emission rate; the operating requirements; the use to be made of such process, fuel-burning, refuse-burning, or control equipment; contaminant concentration, gas volume, and gas temperature at the emission point; physical characteristics of particulates emitted; the location and elevation of the emission point relative to nearby structures, window openings, etc., a flow diagram showing the equipment under consideration and its relationship to other processes, if any, and a general description of these processes; and such other reasonable and pertinent information that may be deemed necessary by the Chief for the purpose of issuing a permit for the installation or operation of any such equipment.

If applicant deems the process or equipment to be secret, he may file, with the approval of the Chief, an affidavit to the effect that such equipment or process will be so used as to comply with all other provisions of this ordinance. Plans and specifications filed with such an affidavit will remain the property of the applicant and shall be only for the confidential use of the Chief, the Board, and their representatives, unless such owner or operator shall expressly agree to their publication or availability to the general public. Nothing herein shall be construed to prevent the use of such records or information by any department, agency or officer of the city in compiling or publishing analyses or summaries relating to the general condition of the ambient atmosphere; provided that such analyses or summaries do not identify, directly or indirectly, any owner or operator or reveal any information otherwise confidential under this section.

941.304 ACTIONS ON APPLICATIONS.

Applications for installation permits and for certificates of operation shall be acted on within a reasonable period of time, after they are filed in the office of the Chief. The Chief shall notify the person applying for the permit or certificate of the approval or rejection of the application in writing. Upon the approval of the application and upon the payment of the prescribed fees, the Chief shall issue the installation permit or the certificate of operation.

941.305 APPLICABILITY OF THE PERMIT.

No construction, installation, reconstruction, or alteration shall be made which is not in accordance with the plans, specifications, and other pertinent information upon which the installation permit was issued without the written approval of the Chief.

941.306 VALIDITY OF PERMITS.

If construction, installation, reconstruction, or alteration is not begun within six (6) months from the date of the issuance of the installation permit, the permit shall be void.

941.307 RENEWAL OF CERTIFICATES OF OPERATION.

Certificates of operation shall be valid for two (2) years from the date of issuance. Such certificates shall be renewable for additional two (2) year periods upon application to the Chief and upon a showing to the Chief that the equipment continues to meet the requirements imposed by this chapter.

941.308 PROSECUTION OF ORDINANCE VIOLATIONS.

The issuance by the Chief of any installation permit or certificate of operation shall not be held to exempt the person to whom the permit or certificate was issued from prosecution for the emission of air contaminants prohibited by this chapter.

941.309 EMERGENCY REPAIRS.

An emergency repair may be made prior to the application for an installation permit if serious consequences would probably result if the repair were deferred. When such repair is made, the person concerned shall notify the Chief on the first business day after the emergency occurred and file an application for an installation permit if directed to do so by the Chief.

941.310 DOMESTIC HEATING PLANTS.

The provisions of this article relating to certificates of operation are not applicable to domestic heating plants or approved domestic heating plants or approved domestic or household incinerators of single and duplex buildings.

(2.0) TITLE FOUR - Schedule of Fees

941.401 FEE FOR INSTALLATION PERMITS.

The fee for the issuance of installation permits for the installation, erection, construction, reconstruction, alteration of, or addition to, fuel-burning, combustion or process equipment or devices, and installation of apparatus or devices for the prevention or arresting of the discharge, smoke, particulate, liquid, gaseous, or other matter shall be ten dollars ($10.00).

941.402 FEES FOR CERTIFICATES OF OPERATION.

Fees shall be as follows for the issuance of certificates of operation:

(a) Fuel-burning equipment used for space heating, steam, incineration or hot water generation for each unit:

(1) Of a capacity of at least 650,000 BTU/hr. but less than 2,800,000 BTU/hr..................................$10.00

(2) Of a capacity of 2,800,000 BTU/hr. or more...........$20.00

(b) Refuse-burning equipment for each unit:

(1) With less than fifteen (15) square feet of grate area..$10.00

(2) With fifteen (15) square feet or more of grate area..$20.00

(c) Process equipment or control devices:

(1) Per one (1) unit operation or one (1) unit process creating atmospheric pollution or any device controlling atmospheric pollution.............$10.00

(2) Per plant system of ten (10) or more units..........$100.00

The fee for biennial inspection shall include the issuing of a certificate of operation.

941.403 PAYMENT OF FEES.

All fees prescribed for the issuance of permits, licenses or certificates, or for the inspection of plans, premises or equipment, under any provision of this chapter, shall be paid to the City Controller, who shall render to the person making such payment a receipt stating the amount and purpose for which such fee has been paid. A duplicate of the Controller's receipt shall be made a part of the records of the Air Pollution Control Department. All fees thus received shall be deposited with the City Controller.

941.404 FEES ARE DEBT DUE THE CITY - SUIT FOR.

All fees prescribed, or the payment of which is required, under any provision of this chapter, shall constitute a debt due the City. The City Attorney may, at the request of the Chief, institute suit in the name of the City to recover the amount of any such unpaid fee.

(2.0) TITLE FIVE - Standards and Prohibitions

(2.0) 941.501 ADOPTED STANDARDS OR RECOMMENDED PRACTICES.

Where reference is made in this chapter to the standards or recommended practices of national technical societies, associations, or other organizations, such information shall form and be considered an integral part of this chapter in the same manner and to the same extent as if fully reproduced herein. Not less than three (3) copies of such standards or recommended practices of technical societies, associations, or other organizations shall be kept on file at all times in the office of the City Clerk of the City of Evansville. In addition, not less than two (2) copies of such standards or recommended practices shall be kept on file at all times in the office of the Chief and shall be available for consultation by the public.

(16.0) 941.502 DELEGATION OF AUTHORITY TO BOARD.

In recognition of the fact that air pollution abatement, control, and prevention is a special technical field, the Common Council expressly delegates to the Air Pollution Control Board the duty of amending the standards which are herein established, and of adopting new and additional standards relating to the emission of air contaminants. The Board, in accordance with the procedures set out in this section, is expressly and specifically empowered and the power of this Council is directly delegated to said Board to set air quality objectives, determine need for specific controls to maintain air purity, and to make and amend rules and regulations and set standards to control air contamination within the City. Such standards, rules and regulations, when adopted as provided in this section, shall become a part of this chapter and by this delegated power expressly incorporated herein, and all future regulations made in compliance herewith, upon their adoption shall become a part hereof. Where no quantitative limit has been established for a particular emission, that emission shall be exempt.

(a) At such time as the Board shall consider that an amendment of the standards which are herein adopted or a new standard should be considered, the proposed amendment or new standard shall be prepared in draft form. Said draft standard shall then be circulated to each of the members of the Board and shall be published at least once in a newspaper of general circulation in Vanderburgh County, such publication date to be not less than ten (10) days before the meeting of the Board at which the said draft regulation shall be considered for final adoption. The newspaper publication of the draft standard shall advise the public of the intention of the Board to consider the draft regulation and shall state when the Board will consider the draft regulation, and that members of the public are invited to appear before the Board at that time and express their opinions on the draft standard.

(b) At the meeting of the Board at which the draft standard is to be considered and at such continuances of the meeting as shall be necessary, the Board shall consider the draft standard and shall give all interested members of the public who appear before the Board at its meeting the opportunity to be heard on the draft standard. Thereafter the Board shall vote on the draft standard and the draft standard shall be considered to have been adopted if it is supported by the affirmative votes of no less than four (4) voting members of the Board.

(c) Upon the adoption of a new standard or the amendment of an existing standard, the Chief shall immediately cause the standard to be filed in the office of the City Clerk, and shall cause the standard to be published in the same manner as is now or may hereafter be provided for the publication of ordinances. The standard shall have the same force and effect as an ordinance after its publication.

(d) Notwithstanding the foregoing provisions of this section 941.502, no standard adopted by the Board shall have any force or effect if, prior to its final publication as provided herein, a resolution or an ordinance is enacted by the Common Council at variance in any way with the proposed standard being considered or adopted by the Board.

(50.1.2) 941.503 VISIBLE EMISSIONS.

The Ringelmann Chart shall be used for grading the light-obscuring power of smoke. No person shall operate any combustion installation so as to produce, cause, suffer or allow smoke to be emitted, the appearance, density or shade of which is darker than No. 2 of the Ringelmann Chart. When cleaning a fire or blowing tubes, smoke which is not darker than a No. 3 Ringelmann Chart may be emitted for a period or periods not exceeding five (5) minutes in any sixty (60) minute period, such emission shall not be permitted on more than six (6) occasions during any twenty-four (24) hour period. When building a new fire, smoke not darker than a No. 3 Ringelmann Chart may be a new fire, smoke not darker than a No. 3 Ringelmann Chart may be emitted, not to exceed ten (10) minutes on one occasion per day. The Chief, at his discretion, may accept an extension of the time period and number of such time periods per day.

When a breakdown of equipment or a change of fuel results in smoke darker than a No. 2 of the Ringelmann Chart, the Chief shall be notified immediately.

The opacity of any color equivalent to the Ringelmann Chart may be used as evidence in determining process emissions. Where water vapor is the sole reason for failure of an emission to meet these limitations, it shall be excepted.

(51.21) 941.504 FUEL AND EQUIPMENT RESTRICTIONS.

(a) Equipment Restriction (Combustion). It shall be unlawful:

(1) To leave any boiler using solid fuel except automatic boilers unattended if the steam load is five thousand (5,000) lbs. per hour or more.

(b) Dual Fuel Boilers. All boilers using more than one type solid fuel must be equipped with individual firing devices for each type fuel.

(c) Central Heating Furnaces and Boilers. All heating furnaces and boilers of the central heating design installed within the City after the passage of this ordinance, if using solid fuel, shall be equipped with a mechanical firing device. This section shall apply to all dwelling units constructed after this date and all replacements of central heating units must be mechanically fired.

(51.5) (51.9) 941.505 EMISSION OF PARTICULATE MATTER FROM FUEL-BURNING AND REFUSE-BURNING EQUIPMENT.

(a) No person shall cause, suffer, or allow to be emitted into the outdoor atmosphere from any fuel-burning equipment or premises, or to pass a convenient measuring point particulate matter in excess of that set forth in ASME Standard No. APS-1, dated June 15, 1966, "Recommended Guide for the Control of Dust Emission--Combustion for Indirect Heat Exchangers." For the purposes of this part, the maximum downwind ground level dust concentration of fifty (50) micrograms per cubic meter for a thirty (30) to sixty (60) minute time period.

Figure 2 in the ASME Standard may be used to estimate allowable emissions. However, irrespective of stack height, the maximum allowable emission for any stack shall be 0.6 pounds for new equipment and 0.8 pounds for existing equipment of particulates per million BTU input.

(b) The burning of refuse in fuel-burning equipment is prohibited except in equipment from which (1) no visible emission in excess of that permitted by Section 941.503 is present, (2) no air pollutants in excess of that permitted by Sub-section (a) of this Section 941.505 are emitted and (3) no odorous materials arising from the installation are observable beyond the premises on which the installation is located.

(51.9) 941.506 INCINERATORS AND EMISSION OF PARTICULATE MATTER FROM INCINERATORS.

No person shall cause or permit the emission of particulate matter from the stack or chimney of any incinerator in excess of the following:

(a) Incinerators with a maximum refuse-burning capacity of 1,000 or more pounds per hour, 0.4 pounds of particulate matter per 1,000 pounds of dry exhaust gas at standard conditions corrected to 50% excess air.

(b) All other incinerators, 0.7 pounds of particulate matter per 1,000 pounds of dry gas at standard conditions corrected to 50% excess air.

(c) No incinerators shall emit or produce smoke in excess of the requirements of Part 941.503 of this chapter.

(d) No incinerator shall emit or produce odorous material arising from the installation which is detectable beyond the premises on which the installation is located.

All new incinerators shall meet the above criteria or be as approved by the Chief.

(50.1.1) 941.507 EMISSION OF PARTICULATE MATTER FROM INDUSTRIAL PROCESS EQUIPMENT.

The maximum allowable emission of particulate matter from any source except fuel-burning and refuse-burning equipment shall be determined from the following table. To use the table, find the process weight per hour in the table, and note the allowable rate of emissions in pounds per hour next to the process weight per hour.

ALLOWABLE RATE OF EMISSION BASED ON PROCESS WEIGHT RATE[a]

Process Weight Rate		Rate of Emission	Process Weight Rate		Rate of Emission
Lb/Hr.	Tons/Hr.	Lb/Hr.	Lb/Hr.	Tons/Hr.	Lb/Hr.
100	0.05	0.551	16,000	8.00	16.5
200	0.10	0.877	18,000	9.00	17.9
400	0.20	1.40	20,000	10.	19.2
600	0.30	1.83	30,000	15.	25.2
800	0.40	2.22	40,000	20.	30.5
1,000	0.50	2.59	50,000	25.	35.4
1,500	0.75	3.38	60,000	30.	40.0
2,000	1.00	4.10	70,000	35.	41.3
2,500	1.25	4.76	80,000	40.	42.5
3,000	1.50	5.38	90,000	45.	43.6
3,500	1.75	5.96	100,000	50.	44.6
4,000	2.00	6.52	120,000	60.	46.3
5,000	2.50	7.58	140,000	70.	47.8
6,000	3.00	8.56	160,000	80.	49.0
7,000	3.50	9.49	200,000	100.	51.2
8,000	4.00	10.4	1,000,000	500.	69.0
9,000	4.50	11.2	2,000,000	1,000.	77.6
10,000	5.00	12.0	6,000,000	3,000.	92.7
12,000	6.00	13.6			

[a] Interpolation of the data in this table for process weight rates up to 60,000 lb/hr. shall be accomplished by use of the equation $E = 4.10P^{0.67}$, and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lb/hr. shall be accomplished by use of the equation $E = 55.0P^{0.11} - 40$, where E = rate of emission in lb/hr. and P = process weight in tons/hr.

(9.0) 941.508 STACK EMISSION TEST METHOD.

Stack emission tests for determination of particulate emission shall be conducted in accordance with generally recognized standards or methods of measurements. Such generally recognized standards or methods shall consist of the latest of the following: "ASME Test Code for Dust Separating Apparatus," the "ASME Test Code for Determining Dust Concentrations in Gas Streams," and the "Los Angeles County Source Testing Manual;" or any other mutually agreed upon testing procedure.

(51.16) 941.509 STORAGE OF PETROLEUM OR OTHER VOLATILE PRODUCTS.

A person shall not place, store or hold in any stationary tank, reservoir or other container of more than sixty-five thousand (65,000) gallons capacity any petroleum product or mixture of products having a vapor pressure of one and five-tenths (1.5) pounds per square inch absolute or greater under actual storage conditions, unless such tank, reservoir or other container is a pressure tank maintaining working pressures sufficient at all times to prevent hydrocarbon vapor or gas loss to the atmosphere, or is designed and equipped with one of the following vapor loss control devices, properly installed, in good working order and in operation:

(a) A floating roof, consisting of a pontoon-type or double-deck type roof, resting on the surface of the liquid contents and equipped with a closure seal, or seals, to close the space between the roof edge and tank wall. The control equipment provided for in this paragraph shall not be used if the gasoline or petroleum distillate has a vapor pressure of eleven (11.0) pounds per square inch absolute or greater under actual storage conditions. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

(b) A vapor recovery system, consisting of a vapor-gathering system capable of collecting the hydrocarbon vapors and gases discharged and a vapor-disposal system capable of processing such hydrocarbon vapors and gases so as to prevent their emission to the atmosphere and with all tank gauging and sampling devices gas-tight except when gauging or sampling is taking place.

(c) Other equipment of equal efficiency.

(51.16) 941.510 VOLATILE PETROLEUM DISTILLATE: LOADING INTO TANKS, TRUCKS, TRAILERS AND RAILROAD TANK CARS.

No person shall load volatile petroleum distillates into any tank, truck or trailer or railroad car from any loading facility unless such loading operation utilizes a submerged fill pipe or such loading facility is equipped with a vapor collection and disposal system or its equivalent, properly installed, in good working order, in operation and approved by the Chief.

For purposes of this section, any petroleum distillate having a Reid vapor pressure of four (4) pounds or greater shall be included within the term "volatile petroleum distillate."

For purposes of this section, the term "submerged fill pipe" is defined as any fill pipe the discharge opening of which is entirely submerged when the liquid level is six (6) inches above the bottom of the tank. "Submerged fill pipe" when applied to a tank which is loaded from the side is defined as any fill pipe the discharge opening of which is entirely submerged when the liquid is eighteen (18) inches above the bottom of the tank.

(51.21) 941.511 GLARE AND HEAT.

No industrial operation, activity or structure shall cause intense heat in such a manner as to be a public nuisance or hazard across lot lines. No industrial operation, activity or structure shall cause illumination at or beyond any residence district boundary in excess of one-tenth (0.1) foot candle.

(50.7) 941.512 VIBRATION.

No industrial operation or activity shall cause at any time or at any point along the nearest adjacent lot line, earth-borne vibrations in excess of the limits set forth in Column I below. In addition, no industrial operation or activity shall cause at any time or at any point along a residence district boundary line, earth-borne vibrations in excess of the limits set forth in Column II.

Vibration shall be expressed as resultant displacement in inches.

Frequency (Cycles per Second)	Displacement (Inches)	Displacement (Inches)
Below 10	.0008	.0004
10 to 20	.0005	.0002
20 to 30	.0002	.0001
30 to 40	.0002	.0001
40 or over	.0001	.0001

The above tabulation is for steady state vibration which is defined as continuous vibration, in contrast to discrete pulses. Impact vibration, that is, discrete pulses which do not exceed one-hundred (100) impulses per minute, shall not produce in excess of twice (2 times) the displacement stipulated above.

(50.7) 941.513 NOISE.

At no point on the boundary of "R" Residential or "C" Commercial Districts as the same are defined in the Zoning Code of the City shall the sound pressure level of any operation or plant (other than background noises produced by sources not under the control of this chapter, such as the operation of motor vehicles or other transportation facilities) exceed the decibel limits in the octave bands designated below:

Octave Band Frequency (Cycles Per Second)	I Maximum Permitted Sound Level (In Decibels) ALONG RESIDENCE DISTRICT BOUNDARIES	II Maximum Permitted Sound Level (In Decibels) ALONG BUSINESS DISTRICT BOUNDARIES
20 to 75	72	79
75 to 175	67	74
175 to 300	59	66
300 to 600	52	59
600 to 1200	46	53
1200 to 2400	40	47
2400 to 4800	34	41
Above 4800	32	39

The prescribed limits of Column I are applicable between the hours of 8:00 A.M. and 6:00 P.M. At other times the allowable levels shall be reduced six (6) decibels in every octave band.

Sound levels shall be measured with a sound-level meter and associated octave band filter, manufactured in compliance with standards prescribed by the American Standards Association. When sounds are of such short duration as not to be measured accurately with the sound-level meter, the impact noise analyzer as manufactured under standards of the American Standards Association shall be used to determine the peak value of the impact. Impacts shall meet the noise performance standards. Sound levels in excess of those stipulated herein may be permitted at such times and under such circumstances as agreed upon by the Chief.

(51.13) 941.514 OPEN BURNING.

(a) No person shall cause, suffer, or allow open burning of refuse, rubbish, grass, wood, garbage or any other material. No person shall conduct a salvage operation by open burning. Open burning may be permitted if all the following conditions are met:

(1) A written statement is filed with the Chief giving the reasons why no method except open burning can be employed to dispose of the refuse involved; the amount and kind of refuse to be burned; the exact location where the burning will take place; the dates and times when the open burning will be done.

(2) A permit is obtained from the Fire Department indicating that no safety hazard will be created by the open burning.

(3) Written approval is received from the Chief, who may, at his discretion, impose such conditions as he shall deem necessary to prevent the creation of a nuisance.

(b) Notwithstanding the provisions of Sub-section (a) of this Section, the open burning of leaves may be permitted by order of the Board of Public Works at such times and under such conditions as may be determined by the Board of Public Works.

(c) Exemptions from this part are as follows:

(1) Camp fires and fires used solely for recreational purposes where such fires are properly controlled by a responsible person.

(2) Burning of rubbish on a farm, derived from an agricultural operation, when the prevailing winds at the time of burning are away from populated areas and no nuisance is created.

(3) Open burning, in remote areas, of highly explosive or other dangerous matters for which there is no other known method of disposal or for special purposes when approved by the Chief.

(4) Open burning of refuse, except garbage, not otherwise exempted under this chapter, where city or county government does not provide collection service or where commercial collection services are not available. Exceptions apply in all areas where they are not prohibited by ordinance or other officials having jurisdiction such as local fire officials.

(d) Open burning shall not apply to residential units up to and including four (4) unit apartments.

(50.7) 941.515 NUISANCE ABATEMENT.

(a) No person shall permit or cause the emission of such quantities of air contaminants from whatever source in such place or manner as to be detrimental to the public or to endanger the health, comfort, or safety of any person or the public, or in such manner as to cause or have a tendency to cause injury or damage to property or business. Each day wherein a violation of this section occurs shall constitute a separate offense. Any act or emission of air contaminants from any single or multiple source in violation or excess of the limitations established in this ordinance shall be unlawful and is declared hereby to constitute a public nuisance. Such a nuisance may be ordered abated by the Chief and such abatement may be in addition to all other fines and penalties herein provided.

(b) No person shall cause or permit the handling, transporting, or disposition of any substance or material which is likely to be scattered by the wind, or is susceptible to being wind-borne, without taking reasonable precautions or measures to minimize atmospheric pollution. No person shall operate or maintain, or cause to be operated or maintained, any premises, open area, right-of-way, storage pile of materials, or vehicle, or construction, alteration, demolition, or wrecking operation, or any other enterprise, which involves any material or substance likely to be scattered by the wind, or susceptible to being wind-borne, without taking reasonable precautions or measures to minimize atmospheric pollution. No person shall maintain or conduct, or cause to be maintained or conducted, any lot or roadway unless such lot or roadway is maintained in such manner as to minimize atmospheric pollution. The Chief shall co-operate with private and public agencies in the problem of controlling wind-borne pollutants.

(c) Nothing in this chapter shall in any manner be construed as authorizing or legalizing the erection or maintenance of a nuisance.

(7.0) 941.516 BREAKDOWN OF EQUIPMENT.

Emissions exceeding any of the limits established in this Title Five as a direct result of upset conditions in or breakdown of any process, fuel-burning, refuse-burning or control equipment or related operating equipment, which upset conditions or breakdown is beyond the control of the person owning or operating the equipment, shall not be deemed to be a violation of this Title Five provided that the owner or operator immediately advises the Chief of the circumstances and outlines a corrective program acceptable to the Chief.

(2.0) 941.517 CIRCUMVENTION.

No person shall build, erect, install or use any article, device, machine, equipment or other contrivance, the purpose of which is to dilute or conceal the emission of air contaminants without resulting in a true reduction in the total release of air contaminants to the atmosphere.

(9.0) TITLE SIX - Sampling and Testing

(9.0) 941.601 AUTHORITY TO CONDUCT TESTS.
(15.0)

(a) The Chief or his authorized representative is hereby authorized to conduct any test or tests of any new or existing process, fuel-burning, refuse-burning, or control equipment the operation of which, in his opinion, may result in emissions in excess of the limitations in this chapter or when, in his judgment, there is evidence that emissions from any such equipment are exceeding any emission limitation prescribed in this chapter. Upon notification by the Chief that emission tests are considered necessary, the owner or operator of such equipment may elect to conduct such tests himself. In this event, such owner or operator shall within ten (10) days after receiving notice of the necessity for such test, notify the Chief of this decision and of the time and date of such testing. All tests made under this ordinance shall be in conformity with generally accepted standards or as recognized by the ASME Code, and a complete, detailed test report of such tests shall be submitted to the Chief. The Chief may require that a representative of his office be present during the conduct of such tests and may stipulate a reasonable time limit within which such tests must be completed.

(b) Nothing in this section concerning tests conducted by any person or his authorized agent shall be deemed to abridge the rights of the Chief or his representatives to conduct separate or additional tests of any process, fuel-burning, refuse-burning, or control equipment on behalf of the City at any reasonable time.

(9.0) 941.602 TEST FACILITIES AND ACCESS.

It shall be the responsibility of the owner or operator of the operation tested to provide, upon notice by the Chief, at such owner's or operator's expense, reasonable and necessary openings in all systems or stacks and safe and easy access thereto, to permit technically valid samples and measurements to be taken. All new potential sources of air contaminants erected after the effective date of this chapter may be required by the Chief to provide adequate openings in the system or stack, and safe and easy access thereto, to permit technically valid measurements and samples to be taken. If a person refuses to supply test openings, access scaffolding, and other necessary facilities requested for the purpose of conducting valid emission tests by the Chief, the Chief shall notify such person to show cause before the Chief on a day certain, not less than ten (10) nor more than twenty (20) days from the date of notice, why the equipment should not be sealed. Failure, after notice, to provide such openings and access thereto shall constitute sufficient grounds for the sealing of the equipment as provided by Title Seven herein.

(15.0) 941.603 RIGHT OF ENTRY FOR INSPECTION.

No person shall in any manner, hinder, obstruct, delay, resist, prevent, or in any manner interfere or attempt to interfere with the Chief, or his authorized representatives, in the performance of any duty herein specified. No person shall refuse to permit the Chief or his representatives to perform their duty by refusing them entrance at reasonable hours to any premises in which the provisions of this chapter are being violated or are suspected of being violated, or refuse to permit the inspection or examination of such premises for the purposes of the enforcement of this chapter. Any person violating the provisions of this section shall be subject to the fines and penalties hereinafter provided.

(2.0) TITLE SEVEN - Procedure for Violations - Sealing

(2.0) 941.701 VIOLATION NOTICE.

If the Chief, after properly indicated tests and evaluation, finds that an emission from any source violates the provisions of Title Five hereof, he may, instead of or in addition to initiating action under Title Nine, issue to the owner or operator of the source in question a violation notice. Such violation notices shall not be issued to plants operating under emergency conditions as outlined in Part 941.309, nor shall action be taken under Title Nine.

(2.0) 941.702 SEALING.

After the issuance by the Chief of three (3) or more violation notices in accordance with the terms of Section 941.701 herein, which three (3) violation notices shall have been issued within a twelve (12) month period and against the same person arising out of excessive emission from the same equipment, such person shall be notified by certified mail to show cause before the Chief within ten (10) days from the receipt of such notice why the equipment emitting such excessive emission should not be sealed. Such notice shall be mailed to the last known address of the person or persons who are the owners or operators of record and responsible for the equipment concerned. In the event that the whereabouts of the person to be so notified is unknown, then such notice shall be posted on or near the premises at which the violations have occurred. Upon failure of such person or his representative to show good cause why the offending equipment should not be sealed and if the Chief determines that adequate corrective measures have not been taken, the Chief shall seal the equipment until such time as such adequate corrective measures are taken. It shall be unlawful for any person to break a seal that has been duly affixed by the Chief or his authorized representative unless authorized in writing by the Chief to do so.

(16.0) 941.703 APPEALS FROM DECISION OF CHIEF.

(a) Appeals of violation notices. Any person who is issued or affected by a violation notice issued in accordance with Section 941.701 herein, may, within thirty (30) days from the date of issuance of said notice, submit data to the Chief indicating reasons why he does not believe that his equipment was in violation of the standards set forth in Title Five of this chapter. The Chief shall review such data so submitted to him including the results of emission tests, if any, and within fifteen (15) days following the receipt of such data the Chief shall either affirm or withdraw the violation notice by informing, in writing, the person receiving such notice of his decision. Upon affirmation of such violation notice the person receiving such violation notice shall have ten (10) days following the issuance of the Chief's affirmation to appeal such affirmation of the violation notice to the Air Pollution Control Board in accordance with the procedures set forth in Section 941.205 of this chapter.

(b) Appeal of Chief's decision to seal. The decision of the Chief to seal any equipment in accordance with Section 941.702 hereof may be appealed to the Air Pollution Control Board in accordance with the procedures established by Section 941.205 of this chapter. Such an appeal to the Air Pollution Control Board shall stay the sealing of the equipment until a final determination of the appeal by the Air Pollution Control Board.

(5.0) TITLE EIGHT - Variances

941.801 VARIANCE.

Where emission sources in existence prior to the adoption of this chapter do not meet the emission limitations established by Title Five herein, then a program to meet the required emission standards shall be developed and submitted to the Chief by the owner of the equipment causing the prohibited emission. Such program shall be submitted upon the request of, and within such times as shall be fixed by the Chief, and after such program has been approved by the Chief, the owner of the equipment causing the emission shall not be in violation of this chapter so long as such program is observed. In evaluating such a program of improvement, the Chief shall take into consideration the following factors:

(a) Action taken to control atmospheric pollution within emission limitations in effect on the effective date of this ordinance.

(b) Efficiency of any existing control equipment relative to that which would be required to meet emission limitations of this chapter.

(c) Temporary interim control measures intended to minimize existing pollution levels.

(d) The effect of the source of emission on ambient air quality generally and in the immediate vicinity of the source.

(e) The degree of control in relation to other similar facilities which produce air pollution.

(f) The age and prospective life of the facility in question.

Reports consisting of information required by the Chief indicating the progress of these programs shall be submitted semi-annually the Chief by the owner of the equipment causing the emission in question. If the program is not followed, the Chief may suspend the program by giving written notice of his decision to the owner of the equipment or his representative, and after such suspension take such other steps and procedures as shall be warranted in conformity with the provisions of this chapter. In the event the owner of the equipment causing the emission and the Chief cannot evolve a mutually acceptable program of improvement, the matter shall be referred to the Air Pollution Control Board for resolution and determination of an acceptable program. In making their determination, the Air Pollution Control Board shall also take into consideration the factors noted in (a) through (f) of this Section.

(15.0) TITLE NINE - Penalties for Violations

941.901 PERSONS LIABLE.

All persons owning, operating, or in charge or control of any equipment or premises who shall cause, suffer, allow, permit, or participate in any violation of this chapter shall be individually and collectively liable for any violations of this chapter and shall be subject to the penalties imposed herein.

941.902 PENALTIES.

Any person who shall violate any of the provisions of this ordinance shall, upon conviction therefor, pay a fine of not less than ten dollars ($10.00) nor more than three hundred dollars ($300.00) for each violation, to which may be added imprisonment for a term not to exceed one hundred eighty (180) days.

Each day's violation shall constitute a separate offense, and every prohibited emission from each chimney, smoke stack, open fire, or other point of discharge shall constitute a separate offense. A separate and distinct offense shall be regarded as committed each day on which such person shall continue or permit any such violation to exist after notification thereof by the Chief.

941.903 ABATEMENT.

The penalty provisions which are herein provided are in addition to and supplemental of abatement procedures and other actions by the Chief contemplated and authorized by this chapter.

(2.0) TITLE TEN - Severability

941.1001 SEVERABILITY.

If any clause, sentence, paragraph or part of this chapter, or the application thereof to any person, firm, corporation or circumstances, shall for any reason, be adjudged by a Court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this chapter, and the application of such provision to other persons, firms, corporations or circumstances, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person, firm, corporation or circumstances involved. It is hereby declared to be the legislative intent of the Common Council of the City of Evansville that this chapter would be adopted independent of the elimination herefrom of any such portion as may be declared invalid.

Section 2. That there is hereby added to the Municipal Code of Evansville, Indiana, 1962, a sub-section numbered 1305.03 (g) of the Section numbered and titled 1305.03 Permits; Application, which sub-section so numbered shall read as follows:

"1305.03 (g)

In the event that the construction, reconstruction, alteration or remodeling work for which a permit is required involves or includes the construction, installation, reconstruction or alteration of any process, fuel-burning or refuse-burning equipment or control equipment pertaining thereto (as such terms are defined in Section 941. 103) no person shall present an application for a building permit nor shall such an application be accepted by the Commissioner until such application is first approved by the Chief of the Air Pollution Control Department in accordance with the requirements of Chapter 941 of the Municipal Code of the City."

Section 3. That the Municipal Code of Evansville, Indiana, 1962, is amended hereby by the repeal and deletion therefrom of the sections numbered and titled 1171.07 Glare and Heat, 1171.08 Vibration, and 1171.09 Noise.

Section 4. That this ordinance shall be in full force and effect from and after its passage by the Common Council, its approval by the Mayor and its publication as provided by law, which publication is now ordered.

MUNICIPAL CODE OF GARY, INDIANA
RELATING TO
AIR QUALITY CONTROL

AN ORDINANCE TO REGULATE SMOKE AND CONTROL AIR QUALITY WITHIN THE CITY OF GARY, INDIANA, AND TO ESTABLISH THE DIVISION OF AIR POLLUTION CONTROL WITHIN THE DEPARTMENT OF HEALTH.

ARTICLE I

(2.0) GENERAL PROVISIONS

(2.0) Sec. 1.1 SHORT TITLE. This ordinance shall be known and cited as the "Air Quality Control Ordinance."

(2.0) Sec. 1.2 PURPOSE. This ordinance is designed to control air pollution by establishing the Division of Air Pollution Control within the Department of Health in the City of Gary, Indiana, and prescribing the duties of the Chief of air pollution control, empowering investigation and abatement by the Chief of violations of this ordinance, providing for the establishment and enforcement of rules and regulations, providing for an air pollution control advisory board, providing for an air pollution appeals board, providing for registration of air pollution sources, permits for the installation, construction, addition to, alteration, and use of process, fuel-burning, refuse-burning, and control equipment and for fees for the same, providing for inspections and tests of process, fuel-burning, refuse-burning, and control equipment and for the issuance of certificates of operation and for fees therefore, establishing limitations upon the emission of air pollutants, declaring emissions which do not meet such limitations to be unlawful and a public nuisance, prohibiting certain acts causing air pollution, providing for fines and penalties for violation of the provisions of this ordinance, and providing just and adequate means by which the provisions of this ordinance may be executed.

(1.0) Sec. 1.3 DEFINITION OF TERMS. The following words and phrases when used in this ordinance shall for the purposes of this ordinance have the meanings respectively ascribed to them in this article, unless a different meaning is clearly indicated.

1. "Air Contaminant." Any smoke, soot, fly ash, dust, cinders, dirt, noxious or obnoxious acids, fumes, oxides, gases, vapors, odors, toxic or radioactive substances, waste, particulate, solid, liquid or gaseous matter, or any other materials in the outdoor atmosphere, but excluding uncombined water.

2. "Air Pollution." The presence in the outdoor atmosphere of one or more contaminants or combinations thereof in such quantities and of such duration that they are or may tend to be injurious to human, plant, or animal life, or property, or that interfere with the comfortable enjoyment of life or property or the conduct of business.

3. "ASME." The American Society of Mechanical Engineers.

4. "ASTM." The American Society for Testing and Materials.

5. "Ashes." Includes cinders, fly ash or any other solid material resulting from combustion, and may include unburned combustibles.

6. "Advisory Board." The board created by this ordinance to act as the Air Pollution Control Advisory Board to the Chief and the Board of Health.

7. "Appeals Board." The board created by this ordinance to act as provided for pursuant to section 2.5 of this ordinance.

8. "Certificate of Operation." A certificate issued by the Chief authorizing the use of any process, fuel-burning, refuse-burning, or control equipment for the period indicated after it has been found that it can be operated in compliance with the ordinance.

9. "City." City of Gary, Indiana.

10. "Chief." Chief of the Division of Air Pollution Control of the City of Gary Health Department, or his authorized representative.

11. "Cleaning Fires." Act of removing ashes from the fuel bed or furnace.

12. "Combustible Refuse." Any combustible waste material.

13. "Control Equipment." Any equipment which has the function of regulating that portion of a process, fuel-burning, or refuse-burning equipment which may release contaminants and thus reduce the creation of, or the emission of air contaminant to the atmosphere, or both.

14. "Council." Common Council of the City of Gary.

15. "Department." The City of Gary Health Department.

16. "Director." The Director or Commissioner of the Health Department or his authorized representative.

17. "Domestic Heating Plant." A plant generating heat for a single residence, or for two residences either in duplex or double house form, or for multiple-dwelling units in which such plant serves fewer than five apartments. Under this designation are also hot water heaters, stoves, space-heaters and other domestic appliances used in connection with the foregoing establishments, or to heat temporary buildings provided however, that like equipment used in multiple-dwelling units other than herein described, or used in permanent buildings of commercial or industrial establishments, is not to be construed as included under this designation.

18. "Domestic Refuse-Burning Equipment." Any refuse-burning equipment or incinerator which is portable, packaged, completely assembled, and direct-fed, having not over five (5) cubic feet storage capacity or twenty-five (25) pounds per hour burning rate, designed to handle combustible refuse consisting of approximately equal amounts of rubbish and garbage by weight.

19. "Emission." The act of passing into the atmosphere of air contaminant, or the material so passed to the atmosphere.

20. "Fuel-Burning Equipment." Any equipment, device, or contrivance used for the burning of any fuel and all appurtenances thereto, including ducts, breechings, control equipment, fuel-feeding equipment, ash-removal equipment, combustion controls, stacks, chimneys, etc., used for indirect heating in which the material being heated is not contacted by and adds no substance to the products of combustion. Such equipment typically includes that used for heating water to boiling; raising steam, or superheating steam; heating air as in a warm air furnace; furnishing process heat that is conducted through process vessel walls; and furnishing process heat indirectly through its transfer by fluids.

21. "Hand-Fired Fuel-Burning Equipment." Fuel-burning equipment in which fuel is manually introduced directly into the combustion chamber.

22. "Incinerators." All devices intended or used for the destruction of refuse or other combustible refuse by burning.

23. "Installation Permit." A permit issued by the Chief authorizing the construction, installation or alteration of any process, fuel-burning, refuse-burning, or control equipment in accordance with plans and specifications approved by the Chief.

24. "Mayor." The Mayor of the City of Gary, Indiana.

25. "Opacity." State of a substance which renders it partially or wholly impervious to the rays of light. Opacity as used in this ordinance refers to the obscuration of an observer's view.

26. "Open Burning." Any fire from which the products of combustion are emitted directly into the outdoor atmosphere without passing through a stack.

27. "Particulate Matter." Material other than uncombined water which is suspended in air or other gases as a liquid or solid.

28. "Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

29. "Process Equipment." Any equipment, device, or contrivance for changing any materials whatever or for storing or handling of any materials, and all appurtenances thereto, including ducts, stacks, etc. The use or existence of which may cause any discharge of air pollutants into the outdoor atmosphere, but not including that equipment specifically defined as fuel-burning equipment or refuse-burning equipment in this ordinance.

30. "Process Weight." The total weight of all material introduced into a unit operation or unit process, including solid fuels, but excluding liquid fuels and gaseous fuels when these are used solely as fuels, and excluding air introduced for purposes of combustion.

31. "Process Weight Per Hour." A rate established as follows:

    (a) For continuous or long-run steady-state unit operation or unit process, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof.

    (b) For cyclical or batch unit operation or unit process, the total process weight for a period that covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such a period.

    Where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of this definition (31), the interpretation that results in the minimum value for allowable emission shall apply.

32. "Refuse-Burning Equipment." Any incinerator, equipment, device, or contrivance used for the destruction of refuse, and/or other combustible wastes by burning, and all appurtenances thereto.

33. "Salvage Operations." Any operation conducted in whole or in part for the salvaging or reclaiming of any product or material.

34. "Seal for Sealing Equipment Or Premises." A device installed by the Chief so as to prevent use of the process, fuel-burning, refuse-burning, or control equipment or premises causing the violation or from which violations of this ordinance originate.

35. "Smoke." Small gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon, ash, and other combustible material.

36. "Stack." Duct, chimney, flue, conduit, or opening arranged for the emission into the outdoor atmosphere of air pollutants.

37. "Unit Operation." Methods where raw materials undergo physical change; methods by which raw materials may be altered into different states, such as vapor, liquid, or solid without changing into a new substance with different properties and composition.

38. "Unit Process." Reactions where raw materials undergo chemical change; where one or more raw materials are combined and completely changed into a new substance with different properties and composition.

ARTICLE II

(2.0) ADMINISTRATIVE ORGANIZATION

(2.0) (15.0) Sec. 2.1 ADMINISTRATIVE ORGANIZATION AND ENFORCEMENT.

A. This ordinance shall be effective territorially throughout the City of Gary.

B. The administration and enforcement of this ordinance shall be conducted by the Division of Air Pollution Control, headed by a Chief, under the direction of the Director.

C. There is hereby created the position in the Department of Health of Chief of Air Pollution Control. He shall be appointed by the Board of Health.

D. The Chief shall perform such duties as may be required of him by the Director relative to Air Pollution Control. He shall have control of all matters and things pertaining to the work of the Division, and shall supervise the execution of all laws, rules, and regulations pertaining to air pollution as provided in this ordinance.

E. The Chief shall be an engineer, a graduate of a recognized university or college, qualified by technical training, and have at least three years experience in the theory and practice of construction and operation of furnaces, combustion devices, or in the theory and practice of air pollution control and shall be qualified by education and experience to co-operate with scientific, educational and civic organizations interested in air pollution control.

(15.0) Sec. 2.2 POWERS AND DUTIES OF THE CHIEF.

A. Supervise the execution of all laws, ordinances, rules, and regulations pertaining to air pollution as provided in this ordinance.

B. Institute complaints against all persons violating any provision of this ordinance and institute necessary legal proceedings to prosecute violations of this ordinance and compel the prevention and abatement of air pollution or nuisances arising therefrom.

C. Examine and approve or disapprove the plans for fuel and refuse-burning equipment, process equipment; and control equipment to be installed, constructed, reconstructed, or altered or added to.

D. Make inspections and tests of existing and newly installed, repaired, constructed, reconstructed, or altered fuel or refuse-burning equipment, process equipment, and control equipment.

E. Investigate complaints of violations of this ordinance and make inspections and observations of air pollution conditions. Record such investigations, complaints, inspections and observations.

F. Approve or reject application for permits, and administer the issuance of certificates of operation, notices or other matters required under the provisions of this ordinance.

G. Prepare and place before the Air Pollution Advisory Board for their consideration proposals for additions or revisions to this ordinance, or any other regulation pertaining to air pollution abatement.

H. Encourage voluntary co-operation by persons or affected groups in the preservation and restoration of the purity of the outdoor atmosphere, and grant a reasonable time to comply with the provisions of this ordinance.

I. Collect and disseminate information on air pollution control.

J. Work with planning and zoning agencies for the purpose of co-ordinating activities under provisions of this ordinance and foster the best possible management of the air resources.

K. Co-operate and work with federal, interstate, state, county, district, municipal, and other agencies concerned with air pollution, with regard to aerometric studies, abatement programs, public complaints, and other matters to the end that the air resources of Gary and Lake County shall be best conserved and improved.

L. Make all needful rules and regulations pertaining to the administration of the Division of Air Pollution. Said rules and regulations must be submitted to the Air Pollution Advisory Board for approval.

M. Issue all permits, certificates, notices, or other matters required under the provisions of this ordinance; to prepare and maintain adequate records thereof; and to notify all persons concerned of any decision he may render and to provide such persons with an opportunity to be heard as herein set forth.

N. To report to the Mayor and Board of Health with respect to recommendations for needed additions or revisions of this ordinance.

O. Do any and all acts which may be necessary for the successful prosecution of the purpose of this ordinance and such other acts as may be specifically enumerated herein as his duties.

(9.0) Sec. 2.3 AIR POLLUTION INSPECTORS.

A. Air Pollution inspectors shall be employees of the Division, qualified by technical training in the theory and practice of the construction and operation of combustion and process equipment or in the theory and practice of smoke abatement and air pollution control.

B. No person employed in the Division shall be directly or indirectly interested in the manufacture, lease or sale of fuel, combustion or process equipment or gas cleaning devices, or other smoke abatement or air pollution control equipment, or the apparatus, or devices connected therewith or any extensions thereof.

C. The duties of the inspectors shall be to carry out the directions of the Chief in all matters relating to enforcement of this ordinance, and to aid and assist the Chief in the efficient discharge of his duties.

(16.0) Sec. 2.4 AIR POLLUTION CONTROL ADVISORY BOARD.

A. An Air Pollution Control Advisory Board shall be appointed by the Mayor except one member being a member of the Common Council appointed by the Council president with the approval of the council. The Board of Health may make recommendations to the Mayor for such appointments. This Board shall study the problem of air pollution control within the City, and shall from time-to-time recommend to the Board of Health and/or the Chief appropriate means of air pollution abatement, including needed additions to or revisions of this ordinance.

B. The Air Pollution Advisory Board shall consist of not less than seven (7) nor more than nine (9) members. Not more than two (2) members of said Board shall hold any public office. Said Board shall consist of at least one of the following: A Chemist or Engineer, at least one Physician licensed to practice medicine in Indiana, and at least one Attorney licensed to practice law in Indiana. Two (2) members shall be appointed for a term of one year, two (2) members for a term of two years, and the remainder for a term of four years. Upon expiration of any term all succeeding terms shall be for a term of four years. This provision shall be implemented by the Mayor on Future replacements or vacancies so as to provide for the afore-mentioned qualified members in an orderly transition from the previous method of appointing committee members.

C. The Air Pollution Control Advisory Board shall elect its own chairman. A quorum shall consist of a majority of the members of the Board. It shall meet at the call of the chairman, and all members shall serve without compensation. The Mayor shall appoint additional members to fill all vacancies. The Chief shall be an ex-officio member of the Board without the right to vote, and shall act as secretary thereof.

D. The Advisory Board shall hold a regular annual meeting on the first Thursday of October and other meetings at such additional times as may be called by the chairman. The chairman shall call a special meeting upon the written request of at least three members of the Advisory Board or at the request of the Chief. The Advisory Board shall keep minutes of its proceedings which shall clearly show the official actions of the Advisory Board and the vote of any member.

E. The Air Pollution Control Advisory Board shall confer with and advise the Board of Health and the Chief on needed revisions or additions in this or any other ordinance pertaining to air pollution or rules and regulations promulgated thereunder and on any matters concerning air pollution.

(16.0) Sec. 2.5 APPEAL BOARD. An Air Pollution Appeal Board is hereby created and shall consist of three (3) members appointed by the Mayor of the City of Gary, one of whom shall be designated by the Mayor as Chairman and two (2) of whom shall constitute a quorum. One (1) member shall be a graduate engineer or chemist, one (1) shall be a physician who holds an unlimited license to practice medicine in the State of Indiana, and one (1) shall be a licensed attorney authorized to practice law in the State of Indiana. The appointed members' terms of office shall be four (4) years except that the terms of those first appointed shall expire as follows:

One (1) at the end of two (2) years after date of appointment;

One (1) at the end of three (3) years after date of appointment;

One (1) at the end of four (4) years after date of appointment, as designated by the Mayor at the time of appointment. The terms of all members shall continue until their respective successors have been duly appointed. If a vacancy occurs in the appointed membership, the Mayor shall appoint a member for the remaining portion of the unexpired term created by the vacancy. Members appointed to fill vacancies shall have the same general qualifications required for their predecessors.

The Appeal Board shall convene at the call of the Chairman and such other times as the Appeal Board may determine. The Appeal Board shall have the power to adopt and enforce such rules and regulations concerning practice and proceedings which are not in conflict with existing state laws governing administrative procedures and practice. All hearings conducted by the Appeal Board shall be open to the public.

The Appeal Board shall keep records of its hearings and other official actions. Each rule and regulation adopted by the Appeal Board, every amendment or repeal thereof, and every order, decision, requirement or determination of the Appeal Board shall be filed promptly in the office of the Division of Air Pollution Control of the City of Gary Department of Health and shall be a public record.

A majority of the Appeal Board is hereby vested with the following jurisdiction and authority:

(1) To decide appeals from any decision, ruling regulation, determination or order made by the Director or Chief under this ordinance, or failure to act within a reasonable time upon request of the Director or Chief, in the manner and subject to the standards set forth in Section 2.6 hereof;

(2) To decide all matters referred to it or upon which it may be required to act under the provisions of this ordinance.

Members of the Appeal Board shall be paid a per diem of Fifteen Dollars ($15.00) for each and every day, or part of a day, in actual attendance at any meeting or hearing of the Appeal Board which per diem shall be a valid claim against the City of Gary Department of Health and be paid from the budget appropriation of said Department.

(2.0) Sec. 2.6 APPEALS. Any person taking exception to and affected by any final decision, ruling, requirement, rule, regulation or order, or failure to act within a reasonable period of time upon request of the Director or Chief, may take an appeal to the Appeal Board established by this ordinance. Such appeal shall be taken within fifteen (15) days after receiving notice of such decision, ruling, requirement, rule, regulation or order, or failure to act within a reasonable period of time upon request of the Director or Chief upon filing with the Director or the Chief a notice of appeal directed to the Appeal Board, specifying the ground thereof and the relief prayed for. A fee of Fifty Dollars ($50.00) shall be posted by the appellant with the Director or Chief, at the time of the filing of the appeal to cover the costs of the hearing on appeal, which fee shall not be refundable. The Director or the Chief shall forthwith furnish to the Appeal Board all the papers in his possession relative to the matter or appeal. Within (10) days after the date of filing of the notice of appeal the Appeal Board shall set a date for the hearing, and shall give notice thereof by mail to the interested parties. The Appeal Board may in its discretion grant continuances. Such an appeal shall act as a stay of the decision, ruling, requirement, rule, regulation, or order in question until the Appeal Board has taken final action on the appeal. At the hearing any party may appear in person or by agent or attorney, and present written and oral evidence, pertinent to the questions and issues involved, and may examine and cross-examine witnesses. All testimony shall be given under oath. The Appeal Board, after the hearing, shall affirm, modify or reverse the decision, ruling, requirement, rule, regulation or order of the Director or the Chief, or order him to act. The decision of the Appeal Board shall be binding on the Director, Chief, and appellant unless reversed by a court of competent jurisdiction upon judicial review.

The procedural provisions of the Administrative Adjudication and Court Review Act (Acts 1947, Chapter 365, Sections 1-30, P. 1451) and all amendments and modifications thereof, and the Procedural rules adopted pursuant thereof, shall apply and govern all proceedings for the judicial review of final administrative decisions hereunder and are adopted and incorporated herein by reference. References in said Act to an agency of the State of Indiana shall be deemed references to the Air Pollution Appeal Board of the City of Gary, and references in said Act to the Attorney General shall be deemed references to the City Attorney.

The Appeal Board at its expense shall provide a court reporter to take the testimony and preserve a record of all proceedings before the Appeal Board. The notice of appeal, the notice of hearing, all exhibits, documents, pleadings, and written motions filed or admitted as evidence in the proceedings, the transcript of testimony adduced and the findings of fact and decisions shall constitute the complete and exclusive record of such hearing. Any party to a hearing may obtain a typewritten transcript of such record at his or her own expense.

The Appeal Board shall not be required to certify any record or file any answer or otherwise appear in any proceeding for judicial review unless the party filing the appeal deposits the sum of ninety-five cents per page, which includes costs of certification. Failure on the part of the appellant to make such deposits shall be grounds for dismissal of the action. Upon judicial review the Secretary of the Appeal Board shall certify the record.

ARTICLE III

(2.0) STANDARDS AND RECOMMENDED PRACTICES

Sec. 3.1 ADOPTED STANDARDS OR RECOMMENDED PRACTICES. Where reference is made in this ordinance to the standards or recommended practices of national technical societies, associations, or other organizations, such information shall form and be considered an integral part of the ordinance in the same manner and extent as if fully reproduced therein. Not less than two copies of such standards or recommended practices of technical societies, associations, or other organizations shall be kept on file at all times in the office of the Chief and shall be available for consultation by the public.

ARTICLE IV

(3.0) INSTALLATION PERMIT AND CERTIFICATE OF OPERATION

Sec. 4.1 APPLICATION REQUIRED. No person shall construct, install, reconstruct, or alter any process, fuel-burning, refuse-burning, or control equipment pertaining thereto, that may be a source of air contaminant, for use within the City of Gary until an application, including not less than two sets of properly prepared plans and specifications, of the process, fuel-burning, refuse-burning, or control equipment and structures or buildings used in connection therewith, has been filed by the person or his agent in the office of, and has been approved by, the Chief, and until an installation permit has been issued by the Chief for such construction, installation, or alteration except as stated in Section 4.5.

Sec. 4.2 INFORMATION REQUIRED. The above mentioned plans or specifications if requested by the Chief shall show the form and dimensions of the process, fuel-burning, refuse-burning, or control equipment, together with the description and dimensions of the building or part thereof in which such process, fuel-burning, refuse-burning, or control equipment is to be located, including the means provided for admitting the air for combustion processes; the character of the fuel to be used; the maximum quantity of such fuel to be burned per hour; the kind and amount of raw materials processed; the expected air contaminant emission rate; the operating requirements; the use to be made of such process, fuel-burning, refuse-burning, or control equipment; contaminant concentration, gas volume, and gas temperature at the emission point; physical characteristics of particulates emitted; the location and elevation of the emission point relative to nearby structures, window openings, etc. a flow diagram showing the equipment under consideration and its relationship to other processes, if any, and a general description of these processes; and any other reasonable and pertinent information that may be required by the Chief.

Sec. 4.3 EMERGENCY REPAIRS. An emergency repair may be made prior to the application for an installation permit if serious air pollution consequences may result if the repair were deferred. When such repair is made, the person concerned shall notify the Chief on the first business day after the emergency occurred and file an application for an installation permit if directed to do so by the Chief.

Sec. 4.4 ACTION ON PERMIT APPLICATIONS. An application shall be acted on within 30 calendar days after it is filed in the office of the Chief. The Chief shall notify the person applying for the permit of approval or reasons for rejection of the application in writing. Upon the approval of the application and upon the payment of the prescribed fees, the Chief shall issue a permit for the construction, installation, or alteration of such process, fuel-burning, refuse-burning, or control equipment.

Sec. 4.5 ALTERNATE ACTION ON PERMIT APPLICATION. In the event the plans, specifications, and information submitted to the Chief pursuant to Sections 4.1 and 4.2 herein, reveal a proposal to construct, install, reconstruct or alter any process, fuel-burning, refuse-burning or control equipment of such complex design and/or involving technological ingenuity or advances of considerable magnitude, the Chief may, at his option, and in lieu of issuing an installation permit, require the applicant to file with the Chief a statement certifying that the proposed equipment or installation will comply with all of the applicable provisions and limitations set forth in this ordinance. Upon the filing of such certificate of compliance, the applicant may proceed with the proposed installation subject, however, to all of the provisions of Section 4.8 hereinafter set forth.

Sec. 4.6 APPLICABILITY OF THE PERMIT. No construction, installation, reconstruction, or alteration shall be made which is not in accordance with the plans, specifications, and other pertinent information upon which the installation permit was issued without the written approval of the Chief.

Sec. 4.7 PERMIT VIOLATION. Violation of the installation permit shall be sufficient cause for the Chief to stop all work, in connection with said permit and he is hereby authorized to seal the installation. No further work shall be done until the Chief is assured that the condition in question will be corrected and that the work will proceed in accordance with the installation permit.

Sec. 4.8 TIME LIMIT ON PERMITS. If construction, installation, reconstruction, or alteration is not completed within one (1) year of the date of the installation permit or within the period of time specified in the permit, the permit shall become void and all fees shall be forfeited, unless an extension of time is warranted and granted by the Chief.

Sec. 4.9 AFFIDAVIT FOR SECRET PROCESS. If applicant deems the process or equipment to be secret, he may file, with the approval of the Chief, an affidavit to the effect that such equipment or process will be so used as to comply with all other provisions of this ordinance. Plans and specifications filed with such an affidavit will remain the property of the applicant...and shall be only for the confidential use of the Chief, the Air Pollution Advisory Board, the Appeals Board, and their representatives, unless such owner or operator shall expressly agree to their publication or availability to the general public. Nothing herein shall be construed to prevent the use of such records or information by any department, agency or officer of the city in compiling or publishing analyses or summaries relating to the general condition of the ambient atmosphere; provided that such analyses or summaries do not identify, directly or indirectly, any owner or operator or reveal any information otherwise confidential under this section.

Sec. 4.10 CERTIFICATE OF OPERATION. No person shall operate or cause to be operated any fuel-burning, refuse-burning, process, or control equipment or any equipment pertaining thereto for which an installation permit was required or was issued under this ordinance until an inspection has been made by the Chief. The person responsible for the installation, construction, or alteration of any process, fuel-burning, or control equipment for which an installation permit is required, shall notify the Chief when the work is completed and ready for final inspection. No equipment shall be operated for any other purpose or in any other manner than that for which the installation permit was approved and for which a certificate of operation has been issued unless otherwise authorized in writing by the Chief. After the installation permit has been issued and it is demonstrated to the satisfaction of the Chief, that the process, fuel-burning, refuse-burning, or control equipment can be operated in compliance with this ordinance, an initial certificate of operation shall be issued by the Chief. Emission tests may be required by the Chief before the issuing of an initial certificate of operation as set forth in Article IV. Said certificate of operation shall be kept posted on or near the installation for which it was issued. The certificate of operation shall properly identify the equipment to which it pertains and shall specify the class of fuel, type of refuse, type of raw materials used, if any, which have been successfully used in the operating test. The initial certificate of operation shall remain in force until terminated by any one or more of the following actions:

a. Implementation and institution of Sections 4.7, 4.8.

b. Execution of Article XI.

Failure to operate successfully under test within the limitations and requirements of this ordinance shall constitute sufficient grounds for ordering changes in the process, fuel-burning, refuse-burning, or control equipment or appurtenances before an initial certificate of operation can be granted. When the Chief refuses to issue a certificate of operation, the Chief is authorized to seal the process, fuel-burning, refuse-burning, or control equipment until the person required to procure the certificate of operation shall have complied with the provisions of this ordinance.

Sec. 4.11 RENEWAL OF CERTIFICATES OF OPERATION. The Chief shall require application of renewal for certificates of operation on all installations for which an installation permit was obtained, and shall require the issuance of certificates of operation on equipment existing prior to the adoption of this ordinance and collect appropriate fees thereof for such certificates. Such certificates of operation shall not be required more often than once per year, and may be terminated for the same reasons as listed in Section 4.10. The Chief is hereby authorized to seal any equipment for which a certificate of operation is required and has not been issued. Installation permits and certificates of operation shall not be transferable.

Sec. 4.12 DOMESTIC HEATING PLANTS AND DOMESTIC REFUSE-BURNING EQUIPMENT. Provisions of Section 4.1 through 4.11 are not applicable to domestic heating plants and shall not apply to domestic refuse-burning equipment.

Sec. 4.13 HEATING PLANTS OF LESS THAN 1,000,000 BTU/HR. INPUT. Provisions of Section 4.1 through 4.11 of the Article are not applicable for heating plants of less than 1,000,000 BTU/HR input provided that such heating plant is for the single purpose of space-heating in residential units and the fuel used for firing is gas or light fuel oils.

Sec. 4.14 REGISTRATION OF EMISSIONS. The Chief may require the written registration of points of emission of air contaminants, whether by stack, duct, flue, equipment, or by any other means when, in his opinion, such information is necessary for the conduct of the work of the department. A period of sixty (60) days shall be allowed for the filing of such registration.

However, in cases of emergency, the Chief, may designate any lesser time which he believes to be justified. The Chief is also empowered to notify the owner or agent when, in his opinion, such registration is no longer required.

Sec. 4.15 CONTENT OF REGISTRATIONS. The written registration of points of emission may include the following information: The location of the source of emission, size of outlets, height of outlets, rate of emission, composition of emission, temperature of effluent or emission, nature of the equipment creating the emissions, and any other pertinent information specified by the Chief.

Sec. 4.16 PROSECUTION OF ORDINANCE VIOLATIONS. The issuance by the Chief of any installation permit or certificate of operation shall not be held to exempt the person to whom the permit or certificate was issued or who is in possession of the same, from prosecution for the emission of air contaminants prohibited by this ordinance.

ARTICLE V

(2.0) SCHEDULE OF FEES

Sec. 5.1 FILING FEES. Fees for the inspection of plans and issuing installation permits for the installation, erection, construction, reconstruction, alteration of, or addition to, fuel-burning, combustion or process equipment or devices, and installation of apparatus or devices for the prevention or arresting of the discharge smoke, particulate, liquid, gaseous, or other matter shall be as follows:

Fuel-burning equipment used for space-heating, steam and hot water or power generation for each unit:

Of a capacity of 1,000,000 BTU/Hr or more	$15.00

Refuse-burning equipment for each unit:

With less than fifteen square feet of grate area	$10.00
With fifteen or more square feet of grate area	$15.00

Process equipment or control devices:

Per one unit operation or one unit process creating atmospheric pollution or any device controlling atmospheric pollution	$10.00

Sec. 5.2 **ANNUAL CERTIFICATE OF OPERATION FEES**. Fees shall be as follows for the issuance or re-issuance of Certificate of Operation which may require annual inspection of fuel-burning, combustion or process equipment or devices:

Fuel-burning equipment used for space-heating, steam and hot water or power generation for each unit:	
Of a capacity of 1,000,000 BTU/Hr or more	$10.00
Refuse-burning equipment for each unit:	
With less than fifteen square feet of grate area	$ 5.00
With fifteen square feet or more of grate area	$10.00
Process equipment or control devices:	
Per one unit operation or one unit process creating atmospheric pollution or any device controlling atmospheric pollution	$ 5.00

Sec. 5.3 **PAYMENT OF FEES**. All fees or penalties prescribed for the issuance of permits, licenses or certificates, or for the inspection of plans, premises or equipment, under any provision of this Article, shall be paid to the Chief, who shall render to the person making such payment a receipt stating the amount and purpose for which such fee or penalty has been paid, a duplicate of which shall be made part of the records of the Department. All fees and penalties thus received shall be deposited with the City Controller for the Corporate Fund.

Sec. 5.4 **DOMESTIC REFUSE-BURNING EQUIPMENT**. Provisions of Section 5.1 and 5.2 of this Article are not applicable for Domestic Refuse-Burning Equipment.

Sec. 5.5 **FEES ARE DEBT DUE THE CITY - SUIT FOR**. All fees or penalties prescribed for the payment of which is required under any provision of this Article, shall constitute a debt due the City. The Corporation Counsel shall, at the direction of the Chief, institute civil suit in the name of the City to recover the amount of any such unpaid fee or penalty. No civil judgment, or any act by the Corporation Counsel, the Chief, or the violator, shall bar or prevent a criminal prosecution for each and every violation of this chapter.

ARTICLE VI

(2.0) EMISSION LIMITATIONS AND PROHIBITIONS - STANDARDS OF MEASUREMENT

(50.1.2) Sec. 6.1 VISIBLE EMISSIONS. It shall be unlawful for any person to discharge into the atmosphere, or cause to be so discharged, from any combustion or process equipment or device, vehicle, incinerator or open fire whatsoever any air contaminant for a period or periods aggregating more than five minutes in any one hour which is:

A. As dark or darker in shade as that designated as No. 2 on the Ringelmann Chart, as published by the United States Bureau of Mines, or

B. Of such opacity as to obscure an observer's view to a degree equal to or greater than described in subsection (A) of this section.

(51.5) Sec. 6.2 EMISSION OF PARTICULATE MATTER FROM FUEL-BURNING EQUIPMENT. No person shall cause, suffer, or allow to be emitted into the outdoor atmosphere from any fuel-burning equipment or premises, or to pass a convenient measuring point near the stack outlet, particulate matter in the gases to exceed 0.60 lbs. per 1,000,000 BTU heat input for fuel-burning units using less than 10,000,000 BTU per hour total input. For single units using greater than 10,000,000 BTU per hour total input, Figure 1 as herein set forth on page 21 hereof will be used to determine the allowable particulate emission limitation. If two or more units connect to a single stack or chimney, each unit shall for the purpose of computing the maximum allowable emission rate, be considered a separate entity with the allowable emission rate for the stack or chimney the sum of the individual computations.

(51.9) Sec. 6.3 EMISSION OF PARTICULATE MATTER FROM INCINERATORS.

A. No person shall cause, suffer or allow to be emitted into the outdoor atmosphere from any incinerator, refuse-burning equipment or premises, or matter in gases to exceed 0.65 pounds for each 1000 pounds of dry flue gases adjusted to 12% carbon dioxide (excluding the effects of any auxiliary fuel); or odorous material arising from the installation which are detectable beyond the premises on which the installation is located.

B. No incinerator shall be used for the burning of refuse unless such incinerator is a multiple chamber incinerator. Existing incinerators which are not multiple chamber incinerators may be altered, modified, or rebuilt as may be necessary to meet this requirement, or found by the Chief to be of equivalent efficiency.

(50.1.1) Sec. 6.4 EMISSION OF PARTICULATE MATTER FROM INDUSTRIAL PROCESS EQUIPMENT. The maximum allowable emission of particulate matter from any source whatever except fuel-burning and refuse-burning equipment shall be determined from Table 1 as herein set forth on page 20 hereof. To use the table, find the process weight per hour in the table, and note the allowable rate of emissions in pounds per hour next to the process weight per hour. If two or more process units connect to a single stack or chimney, each unit shall for the purpose of computing the maximum allowable emission rate, be considered a separate entity with the allowable emission rate for the stack or chimney the sum of the individual computations.

(51.16) Sec. 6.5 STORAGE OF PETROLEUM OR OTHER VOLATILE PRODUCTS. A person shall not place, store or hold in any stationary tank, reservoir or other container of more than 65,000 gallons capacity any petroleum product or mixture of products having a vapor pressure of 2.0 pounds per square inch absolute or greater under actual storage conditions, unless such tank, reservoir or other container is a pressure tank maintaining working pressures sufficient at all times to prevent hydrocarbon vapor or gas loss to the atmosphere, or is designed and equipped with one of the following vapor loss control devices, properly installed, in good working order and in operation.

A. A floating roof, consisting of a pontoon-type or double-deck type roof, resting on the surface on the liquid contents and equipped with a closure seal, or seals, to close the space between the roof edge and tank wall. The control equipment provided for in this paragraph shall not be used if the gasoline or petroleum distillate has a vapor pressure of 12.0 pounds per square inch absolute or greater under actual storage conditions. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

B. A vapor recovery system, consisting of a vapor-gathering system capable of collecting the hydrocarbon vapors and gases discharged and a vapor-disposal system capable of processing such hydrocarbon vapors and gases so as to prevent their emission to the atmosphere and with all tank gauging and sampling devices gas-tight except when gauging or sampling is taking place.

C. Other equipment of equal efficiency, provided plans for such equipment are submitted to and approved by the Chief.

(51.16) Sec. 6.6 VOLATILE PETROLEUM DISTILLATE LOADING INTO TANKS, TRUCKS, TRAILERS AND RAILROAD TANK CARS. A person shall not load volatile petroleum distillates into any tank, truck or trailer or railroad car from any loading facility unless such loading operation utilizes a submerged fill pipe or such loading facility is equipped with a vapor collection and disposal system or its equivalent, properly installed, in good working order, in operation and approved by the Chief.

For purposes of this section any petroleum distillate having a Reid vapor pressure of 4 pounds or greater shall be included by the term "volatile petroleum distillate."

For the purposes of this section, the term "submerged fill pipe" is defined as any fill pipe the discharge opening of which is entirely submerged when the liquid level is 6 inches above the bottom of the tank. "Submerged fill pipe" when applied to a tank which is loaded from the side is defined as any fill pipe the discharge opening of which is entirely submerged when the liquid is 18 inches above the bottom of the tank.

(50.2) Sec. 6.7 SULFUR OXIDES. No person shall cause, let, permit, suffer or allow any emission of sulfur oxides which results in ground level concentrations of sulfur oxides at any given point in excess of 0.5 ppm (volume) in the period of any hour and average exposure shall not exceed 0.10 ppm (volume) of sulfur oxide in any 24-hour period. These limitations shall not apply to ground level concentrations occurring on the property from which such emission occurs, provided such property, from the emission point to the point of any such concentration is controlled by the person responsible for such emission.

(9.0) Sec. 6.8 STACK EMISSION TEST METHOD. Stack emission tests shall be undertaken by generally recognized standards or methods of measurements. The latest of the following codes the "A.S.M.E. Test Code for Dust Separating Apparatus," the "A.S.M.E. Test Code for Determining Dust Concentrations in Gas Streams," the "Los Angeles County Source Testing Manual," or any other mutually agreeable testing procedure shall be used.

(51.13) Sec. 6.9 OPEN BURNING.

A. No person shall dispose of refuse by open burning, or cause, suffer, allow, or permit open burning of refuse, unless a permit therefore has been obtained from the Chief.

1. Any person required by the section to secure a Refuse-Burning Permit may apply for a continuing permit which, when issued, shall authorize the burning of combustible refuse during the period covered thereby, such period not to exceed one (1) year.

B. The open burning of refuse may be permitted when it can be shown by a person that such open burning is absolutely necessary and in the public interest. Any person intending to engage in open burning of refuse shall file a request to do so with the Chief. The application shall state the following but are not limited to:

1. The name, address and telephone number of the person submitting the application.

2. The type of business or activity involved.

3. A description of the proposed equipment and operating practices, the type, quantity, and composition and amount of air contaminants to be released to the atmosphere.

4. The schedule of burning operations.

5. The exact location or locations where such open burning may be carried on.

6. Reason why no method other than open burning can be used for disposal of trade waste.

7. Evidence that the proposed open burning has been approved by the Gary Fire Department.

C. The Chief may, in his discretion, impose other reasonable conditions necessary to prevent the creation of a nuisance.

(51.13) Sec. 6.10 PROHIBITION OF SALVAGE OPERATIONS BY OPEN BURNING. No person shall conduct or cause or permit the conduct of a salvage operation by open burning.

(50.7) Sec. 6.11 NUISANCE ABATEMENT.

A. It is unlawful for any person to permit or cause the emission of such quantities of air contaminants from whatever source in such place or manner as to be detrimental to any person or to the public or to endanger the health, comfort, or safety of any person or the public, or in such manner as to cause or have a tendency to cause injury or damage to property or business. Each day wherein a violation of this section occurs shall constitute a separate offense. Any act or emission of air contaminants from any single or multiple source in violation or excess of the limitations established in this ordinance is hereby declared a public nuisance and shall be unlawful, and may be ordered abated by the Chief. Such abatement may be in addition to the fines and penalties herein provided.

B. It shall be unlawful for any person to cause or permit the handling, transporting, or disposition of any substance or material which is likely to be scattered by the wind, or is susceptible to being wind-borne, without taking reasonable precautions or measures to minimize atmospheric pollution. It shall be unlawful for any person to operate or maintain, or cause to be operated or maintained, any premises, open area, right of way, storage pile of materials, or vehicle, or construction, alteration, demolition, or wrecking operation, or any other enterprise, which involves any material or substance likely to be scattered by the wind, or susceptible to being wind-borne, without taking reasonable precautions or measures to minimize atmospheric pollution. No person shall maintain or conduct, or cause to be maintained or conducted, any parking lot, or automobile and/or truck sales lot, or use any roadway unless such lot or roadway is maintained in such manner as to minimize atmospheric pollution.

C. Nothing in any section of this ordinance relating to regulation of emission of air contaminants shall in any manner be construed as authorizing or legalizing the erection or maintenance of a nuisance.

(7.0) Sec. 6.12 BREAKDOWN OF EQUIPMENT. Emissions exceeding any of the limits established in Article VI as a direct result of upset conditions in or breakdown of any process, fuel-burning, refuse-burning or control equipment or related operating equipment beyond the control of the person owning or operating such equipment shall not be deemed to be in violation of Article VI provided that the owner or operator immediately advises the Chief of the circumstances and outlines a corrective program acceptable to the Chief.

(2.0) Sec. 6.13 CIRCUMVENTION. No person shall build, erect, install or use any article, machine, equipment or other contrivance, the sole purpose of which is to dilute or conceal an emission without resulting in a reduction in the total release of air contaminants to the atmosphere. Increase in stack height or construction so as to increase stack exit velocity of gases shall not constitute a violation of this section.

ARTICLE VII

(12.0) INTERNAL COMBUSTION ENGINES

Sec. 7.1 INTERNAL COMBUSTION ENGINE LIMITS. No person shall operate, or cause to be operated, upon any street, highway, public place or private premises within the City of Gary, any internal combustion engines, while stationary or moving, which emits from any source of emission whatsoever any air contaminants for a period or periods aggregating more than three minutes in any one hour which is:

a. As dark or darker in shade as that designated as No. 2 on the Ringelmann Chart, as published by the United States Bureau of Mines or

b. Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subsection (a) of this section.

ARTICLE VIII

(2.0) CO-ORDINATION OF DEPARTMENTS

(3.0) Sec. 8.1 ISSUANCE OF PERMITS. No permit for the erection, construction, or alteration of any building, plant, or structure, related in any manner to fuel-burning equipment, or processing equipment which may be a source of air contaminants, shall be issued by the building commissioner or by any department, bureau, division, officer, or employee of the city until the Chief of the Air Pollution Division has issued an installation permit covering the equipment under his jurisdiction to be used in the building, plant, or structure as provided within this ordinance.

(2.0) Sec. 8.2 CO-ORDINATION. It shall be the duty of the various departments, bureaus, divisions, officers, and employees of the city, having charge of the inspection of the premises in which such equipment is located, to co-operate with the Chief to determine that the execution of the work so authorized by said permit shall be done in conformity with the approved plans and specifications fixed by the Chief.

ARTICLE IX

(9.0) SAMPLING AND TESTING

Sec. 9.1 AUTHORITY TO CONDUCT TESTS.

A. The Chief is hereby authorized to conduct, or cause to be conducted, any test or tests of any new or existing process, fuel-burning, refuse-burning, or control equipment the operation of which, in his opinion, may result in emissions in excess of the limitations in this ordinance or when, in his judgment, there is evidence that emissions from any such equipment are exceeding any emission limitation prescribed in this ordinance. Upon notification by the Chief that emission tests are considered necessary, a person may elect to conduct such tests himself. In this event, the person shall notify the Chief of this decision and of the time and date of such testing. All tests so conducted shall be in a manner acceptable to the Chief, and a complete detailed test report of such tests shall be submitted to the Chief. The Chief may stipulate that a representative of his office be present during the conduct of such tests and may stipulate a reasonable time limit for the completion of such tests.

B. Nothing in this section concerning tests conducted by and paid for by any person or his authorized agent shall be deemed to abridge the rights of the Chief or his representatives to conduct separate or additional tests of any process, fuel-burning, refuse-burning, or control equipment on behalf of the City at a reasonable time and at the City's expense except as provided in Section 9.3 below.

Sec. 9.2 TEST FACILITIES AND ACCESS. It shall be the responsibility of the owner or operator of the operation tested to provide, at his expense, reasonable and necessary openings in the system or stack, and safe and easy access thereto, to permit technically valid samples and measurements to be taken. All new sources of air contaminants erected after the effective date of this ordinance may be required by the Chief to provide adequate openings in the system or stack, and safe and easy access thereto, to permit technically valid measurements and samples to be taken. If a person refuses to supply test openings, access scaffolding, and other pertinent facilities requested for the purpose of conducting valid emission tests by the Chief, the Chief shall notify such person to show cause before the Chief on a day certain, not less than ten (10) nor more than twenty (20) days from the date of notice, why the equipment should not be sealed.

Sec. 9.3 TEST COSTS. If emission tests conducted as a result of the procedures outlined in Section 9.1 substantiate that a violation exists, the person or persons liable for the violation shall be responsible for paying all attendant costs for conducting said tests. If said tests do not substantiate that the violation exists, then the City shall be responsible for paying all attendant costs for conducting said tests. This latter condition shall not obviate the owners' or operators' responsibilities set forth in Section 9.2. Provided, however, if the person liable elects to conduct his own stack emission tests as stipulated in Section 6.8 and Section 9.1, the person so electing shall pay for these tests irrespective of their outcome.

ARTICLE X

(5.0) VARIANCES

Sec. 10.1 VARIANCE CLAUSE. Where emission sources in existence prior to the adoption of this ordinance do not meet the emission limitations noted in Article VI above, then a program to meet the emission limitations stipulated shall be developed and offered to the Chief by the owner of the equipment causing the emission. Provided, however, that written agreements entered into between any person and appropriate city officials prior to the adoption of this ordinance for the elimination or abatement of air pollution shall be recognized as valid and enforceable obligations under the terms of this ordinance and compliance with such agreements shall constitute compliance with this ordinance for all purposes. This program shall be submitted upon the request of and within such times as shall be fixed by the Chief, and after said program has been approved by the Chief, the owner of the equipment causing the emission shall not be in violation of this ordinance so long as said program is observed. In evaluating such a program of improvement, the Chief shall take into consideration the following factors:

A. Action taken to control atmospheric pollution within emission limitations in effect prior to this ordinance.

B. Efficiency of any existing control equipment relative to that which would be required to meet emission limitations of this ordinance.

C. Temporary interim control measures intended to minimize existing pollution levels.

D. The effect the source of emission has on ambient air quality generally or in the immediate vicinity of the source.

E. The degree of control in relation to other similar facilities which produce air pollution.

F. The age and prospective life of the facility in question. Reports consisting of information required by the Chief indicating the progress of these programs shall be submitted annually to the Chief by the owner of the equipment causing the emission in question. If the Chief determines that the progress of the program submitted by the owner has not been followed, the Chief may suspend the program and issue a violation notice. In the event the owner of the equipment causing the emission and the Chief cannot evolve a mutually acceptable program of improvement, the matter shall be referred to the Air Pollution Advisory Board for resolution and determination of an acceptable program. In making their determination, the Air Pollution Advisory Board shall also take into consideration the factors noted in (A) through (F) above.

Sec. 10.2 SPECIFIC VARIANCES.

A. Where the presence of uncombined water is the only reason for failure of an emission to meet requirements of (A) and (B) of Section 6.1 of this ordinance, such section shall not apply.

B. Until such time as a technically feasible method is available to control pollutants from certain process, fuel-burning, refuse-burning or other equipment and/or devices, such equipment shall not be in violation of the ordinance, including but not limited to the following:

1. Transfer of molten metals.
2. Emission from transfer ladles.
3. Coke ovens when charging ovens.
4. Coke ovens when pushing coke from ovens.
5. Water quenching of coke on discharge from ovens.

C. Upon request of the Chief, an annual report on progress of research to control emissions from processes listed in Section 10.2 (B) shall be submitted to the Chief and by him to the Advisory Board. As soon as methods of control are practicable, in the opinion of the Advisory Board, such controls shall be installed. Until such controls are deemed practicable and the time recommended by the Board for the accomplishment of said installations has expired, the provisions of this ordinance in Article VI shall not apply.

D. Experimental procedures on new or existing process, fuel-burning, refuse-burning or other equipment and/or devices susceptible for use in such a manner as to emit atmospheric pollutants, may be conducted upon receipt of the written approval of the Chief. The Chief may grant such written approval to conduct experimental procedures for any period of time not to exceed one (1) year and he may in addition to said time limitation impose such other conditions and limitations on the conduct of said experimental procedures that he deems reasonable to minimize the effects of the experimental procedure on the ambient air. During the period of time said experimental procedures are conducted with the approval of the Chief, the provisions and limitations of Article VI herein shall not apply.

ARTICLE XI

(2.0) SEALING

Sec. 11.1 SEALING. After previous notification of three or more violations of this ordinance within a 12 month period, with respect to the emission of air contaminants, a violator shall be notified by registered mail to show cause before the Chief within 10 days why the offending equipment shall not be sealed. The notice shall be directed to the last address of the person to be notified or if the person or his whereabouts is unknown, then the notice shall be posted on or near the premises at which the violations have occurred. If upon the hearing, at which the violator or his agent or attorney may appear and be heard, the Chief finds that adequate corrective measures have not been taken he shall seal the equipment until such time as corrective measures are taken. The decision may be appealed to the Appeals Board, and such appeal shall stay the sealing until the Appeals Board renders a decision. It shall be unlawful for any person to break a seal that has been duly affixed by the Chief or his authorized representative unless authorized in writing by the Chief to do so.

ARTICLE XII

(15.0) RIGHT OF ENTRY

Sec. 12.1 RIGHT OF ENTRY FOR INSPECTION. Any person who in any manner, hinders, obstructs, delays, resists, prevents, or in any manner interferes or attempts to interfere with the Chief, inspectors, or police officers in the performance of any duty enjoined, or shall refuse to permit the Chief or such officers to perform their duty by refusing them, or either of them, entrance at reasonable hours to any premises in which the provisions of this ordinance are being violated or are suspected of being violated, or refuse to permit the inspection or examination of such premises for the purposes of the enforcement of this ordinance, shall be subject to the fines and penalties hereinafter provided.

ARTICLE XIII

(2.0) PERSONS LIABLE

Sec. 13.1 PERSONS LIABLE. All persons owning, operating, or in charge or control of any equipment or premises who shall cause, suffer, allow, permit or participate in any violation of this ordinance shall be individually and collectively liable for any penalties imposed by this ordinance. This liability shall include any person who shall refuse to comply with or who shall assist in the violation of any of the provisions of this ordinance.

ARTICLE XIV

(2.0) PARTY TO CLAIMS OR ACTIONS

Sec. 14.1 CLAIMS OR ACTIONS. All claims or actions filed by or against the Chief, Air Pollution Advisory Board, or the Board of Health shall be brought in the name of or filed against the City of Gary, Indiana, a municipal corporation.

ARTICLE XV

(15.0) PENALTIES FOR VIOLATIONS

Sec. 15.1 PENALTIES. Any person who shall violate any of the provisions of this ordinance shall upon conviction thereof, pay a fine of not less than Ten Dollars ($10.00) nor more than Three Hundred Dollars ($300.00) for each violation, to which may be added imprisonment for a term not to exceed one hundred eighty (180) days.

Each day's violation shall constitute a separate offense and an unlawful emission from each chimney, smoke stack, open fire or other point of discharge shall also constitute a separate offense. A separate and distinct offense shall be regarded as committed each day on which such person shall continue or permit any such violation to exist after notification thereof by the Chief.

Any abatement provided for in Article VI shall be in addition to any penalties prescribed in this section.

ARTICLE XVI

(15.0) ALTERNATIVE PROCEDURE FOR VIOLATIONS

Sec. 16.1 VIOLATION NOTICE. If the Chief has reason to believe an emission from any source violates the provisions of Article VI hereof, he may instead of acting under Article XV issue to the owner or operator of the source in question a violation notice.

A. Any person who is issued a violation notice may, within thirty (30) days from the date of receipt of said notice, submit data to the Chief indicating reasons why he does not believe he was in violation of Article VI. The Chief shall review the data submitted and within fifteen (15) days affirm or withdraw the violation notice by informing, in writing, the person receiving said notice of the decision to affirm or withdraw. In the case where such data is not submitted to the Chief within the thirty (30) days stipulated, the violation shall be considered still in force and affirmed.

B. In the case of a violation of Article VI, the person cited, within ten (10) days of receipt of the Chief's decision of affirm the violation notice as provided for in Section 15, (or within ten (10) days of a decision of the Appeals Board, should appeal to be taken from the Chief's decision to affirm the violation notice) may ask that emission tests be performed to determine the extent of emissions from the operation which is the subject of the particulate emission violation notice. If the emission tests indicate that the total amount of particulate matter exceeds the maximum allowable emission standard applicable to the operation under Article VI, the violation notice shall be considered substantiated. If the emission tests indicate that the total amount of particulate matter is equal to or less than the emission standard applicable to the operation under Article VI, then the violation notice shall be considered void.

ARTICLE XVII

(2.0) SEVERABILITY

Sec. 17.1 SEVERABILITY. If any clause, sentence, paragraph or part of this ordinance, or the application thereof to any person, firm, corporation or circumstances, shall for any reason, be adjudged by a Court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this ordinance, and the application of such provision to other persons, firms, corporations, or circumstances, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person, firm, corporation or circumstances involved. It is hereby declared to be the legislative intent of this body that this ordinance would have been adopted had such invalid provisions not been included.

ARTICLE XVIII

(2.0) REPEAL CLAUSE

Sec. 18.1 REPEAL CLAUSE. All laws heretofore passed by the Common Council of the City of Gary dealing with the problem of air pollution, and specifically including an ordinance entitled "Air Pollution Control," 8-1301 - 8-1314, are hereby repealed.

TABLE I

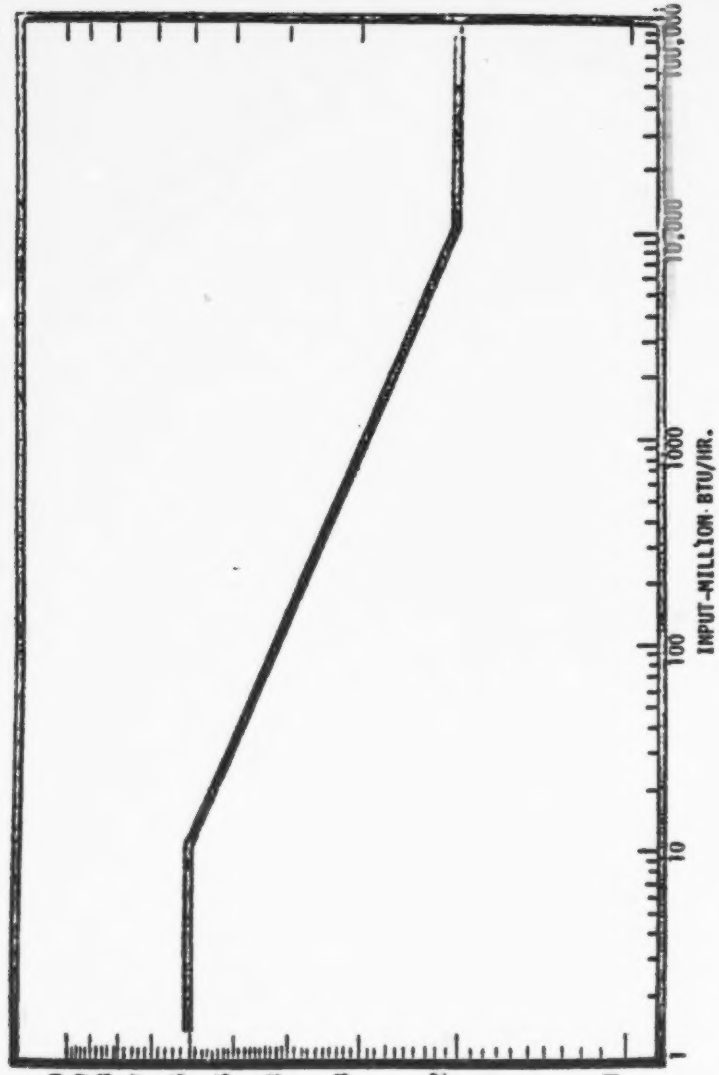
Allowable Rate of Emission Based on Process Weight Rate[a]

Process Weight Rate		Rate of Emission	Process Weight Rate		Rate of Emission
Lbs/Hr	Tons/Hr	Lbs/Hr	Lbs/Hr	Tons/Hr	Lbs/Hr
100	0.05	0.551	16,000	8.00	16.5
200	0.10	0.877	18,000	9.00	17.9
400	0.20	1.40	20,000	10.00	19.2
600	0.30	1.83	30,000	15.00	25.2
800	0.40	2.22	40,000	20.00	30.5
1,000	0.50	2.58	50,000	25.00	35.4
1,500	0.75	3.38	60,000	30.00	40.0
2,000	1.00	4.10	70,000	35.00	41.3
2,500	1.25	4.76	80,000	40.00	42.5
3,000	1.50	5.38	90,000	45.00	43.6
3,500	1.75	5.96	100,000	50.00	44.6
4,000	2.00	6.52	120,000	60.00	46.3
5,000	2.50	7.58	140,000	70.00	47.8
6,000	3.00	8.56	160,000	80.00	49.0
7,000	3.50	9.49	200,000	100.00	51.2
8,000	4.00	10.40	1,000,000	500.00	69.0
9,000	4.50	11.20	2,000,000	1,000.00	77.6
10,000	5.00	12.00	6,000,000	3,000.00	92.7
12,000	6.00	13.60			

[a] Interpolation of the data in this table for process weight rates up to 60,000 lb/hr. shall be accomplished by use of the equation $E = 4.10\ P^{0.67}$, and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lb/hr. shall be accomplished by use of the equation;

$E = 55.0\ P^{0.11} - 40$, where E = rate of emission in lb/hr. and
P = Process weight in tons/hr.

For those processes whose weight exceeds 200 tons/hour, the maximum allowable emission may exceed that shown in Table I, provided that the concentration of particulate matter in the discharge gases to the atmosphere is less than 0.10 pounds per 1,000 pounds of gases.



PARTICULATE EMISSION LIMITS

FIGURE 1

AIR QUALITY
CONTROL ORDINANCE
CITY OF HAMMOND, INDIANA

AN ORDINANCE TO REGULATE SMOKE AND CONTROL AIR QUALITY WITHIN THE CITY OF HAMMOND, INDIANA, AND TO ESTABLISH THE DEPARTMENT OF AIR POLLUTION CONTROL

ARTICLE I

(2.0) GENERAL PROVISIONS

(2.0) Sec. 1.1 SHORT TITLE. This ordinance shall be known and cited as the "Air Quality Control Ordinance."

(2.0) Sec. 1.2 PURPOSE. This ordinance is designed to control air pollution by establishing the Department of Air Pollution Control in the City of Hammond, Indiana, and prescribing the duties of the Chief of air pollution control, empowering investigation and abatement by the Chief of violations of this ordinance, providing for the establishment and enforcement of rules and regulations, providing for an AIR POLLUTION CONTROL BOARD, providing for registration of air pollution sources, permits for the installation, construction, addition to, alteration, and use of process, fuel-burning, refuse-burning, and control equipment and for fees for the same, providing for inspections and tests of process, fuel-burning, refuse-burning, and control equipment and for the issuance of certificates of operation and for fees therefor, establishing limitations upon the emission of air pollutants, declaring emissions which do not meet such limitations to be unlawful and a public nuisance, prohibiting certain acts causing air pollution, providing for fines and penalties for violation of the provisions of this ordinance, and providing just and adequate means by which the provisions of this ordinance may be executed.

(1.0) Sec. 1.3 DEFINITION OF TERMS. The following words and phrases when used in this ordinance shall for the purpose of this ordinance have the meanings respectively ascribed to them in this article, unless a different meaning is clearly indicated.

(a) "Air Contaminant." Any smoke, soot, fly ash, dust, cinders, dirt, injurious or objectionable acids, fumes, oxides, gases, vapors, odors, toxic or radioactive substances, waste, particulate, solid, liquid or gaseous matter, or any other material in the outdoor atmosphere, but excluding uncombined water.

(b) "Air Pollution." The presence in the outdoor atmosphere of one or more contaminants or combinations thereof in such quantities and of such duration that they are or may tend to be injurious to human, plant, or animal life, or property, or that interfere with the comfortable enjoyment of life or property or the conduct of business.

(c) "ASME." The American Society of Mechanical Engineers.

(d) "ASTM." The American Society for Testing Materials.

(e) "Ashes." Includes cinders, fly ash or any other solid material resulting from combustion, and may include unburned combustibles.

(f) "Air Pollution Control Board." The board created by this ordinance to be known as the Air Pollution Control Board and to act as provided for pursuant to Section 2.4 of this ordinance.

(g) "Certificate of Operation." A certificate issued by the Chief authorizing the use of any process, fuel-burning, refuse-burning, or control equipment for the period indicated after it has been found that it can be operated in compliance with the ordinance.

(h) "City." City of Hammond, Indiana.

(i) "Chief." Chief of the Department of Air Pollution Control of the City of Hammond or his authorized representative.

(j) "Cleaning Fires." Act of removing ashes from the fuel bed or furnace.

(k) "Combustible Refuse." Any combustible waste material.

(l) "Control Equipment." Any equipment which has the function of regulating that portion of a process, fuel-burning, or refuse-burning equipment which may release contaminants and thus reduce the creation of, or the emission of air contaminants to the atmosphere, or both.

(m) "Council." City Council of the City of Hammond.

(n) "Department." Air Pollution Control Department.

(o) "Domestic Heating Plant." A plant generating heat for a single-family residence, or for two residences either in duplex or double house form, or for multiple-dwelling units having a total input of less than 1,000,000 BTU per hour. Under this designation are also hot water heaters, stoves, and space heaters used in connection with the foregoing establishments, or to heat temporary buildings; provided, however, that like equipment used in multiple-dwelling units other than herein described, or used in permanent buildings of commercial or industrial establishments, is not to be construed as included under this designation.

(p) "Domestic Incinerator." Portable, packaged, completely assembled, direct-fed incinerator, having not over 5 cubic feet storage capacity or 25 pounds per hour burning rate, designed to handle combustible refuse consisting of approximately equal amounts of rubbish and garbage by weight.

(q) "Emission." The act of passing into the atmosphere of air contaminant, or the material so passed to the atmosphere.

(r) "Fuel-burning Equipment." Any equipment, device, or contrivance used for the burning of any fuel and all appurtenances thereto, including ducts, breechings, control equipment, fuel-feeding equipment, ash-removal equipment, combustion controls, stacks, chimneys, etc., used for indirect heating in which the material being heated is not contacted by and adds no substance to the products of combustion. Such equipment typically includes that used for heating water to boiling; raising steam, or super-heating steam; heating air as in a warm air furnace; furnishing process heat that is conducted through process vessel walls; and furnishing process heat indirectly through its transfer by fluids.

(s) "Hand-fired Fuel-burning Equipment." Fuel-burning equipment in which fuel is manually introduced directly into the combustion chamber.

(t) "Incinerators." All devices intended or used for the destruction of refuse or other combustible refuse by burning.

(u) "Installation Permit." A permit issued by the Chief authorizing the construction, installation, or alteration of any process, fuel-burning, refuse-burning, or control equipment in accordance with the plans and specifications approved by the Chief.

(v) "Mayor." The Mayor of the City of Hammond, Indiana.

(w) "Opacity." State of a substance which renders it partially or wholly impervious to the rays of light. Opacity as used in this ordinance refers to the obscuration of an observer's view.

(x) "Open Burning." Any fire from which the products of combustion are emitted directly into the outdoor atmosphere without passing through a stack.

(y) "Particulate Matter." Material other than uncombined water which is suspended in air or other gases as a liquid or solid.

(z) "Person." Any individual, partnership, co-operative, firm, company, corporation, association, joint stock company, trust, estate, government entity or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

(aa) "Process Equipment." Any equipment, device, or contrivance for changing any materials whatever or for storing or handling of any materials, and all appurtenances thereto, including ducts, stacks, etc., the use of existence of which may cause any discharge of air pollutants into the outdoor atmosphere, but not including that equipment specifically defined as fuel-burning equipment or refuse-burning equipment in this ordinance.

(bb) "Process Weight." The total weight of all material introduced into a unit operation or unit process, including solid fuels, but excluding liquid and fuels and gaseous fuels when these are used solely as fuels, and excluding air introduced for purposes of combustion.

(cc) "Process Weight Rate." A rate established as follows:

(a) For continuous or long run steady-state unit operations or unit processes, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof.

(b) For cyclical or batch unit operations or unit processes, the total process weight for a period that covers a complete operation or an integral number of cycles, divided by the hours of actual process operations during such a period.

Where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply.

(dd) "Refuse-burning Equipment." Any incinerator, equipment, device, or contrivance used for the destruction of refuse, and/or other combustible wastes by burning, and all appurtenances thereto.

(ee) "Salvage Operations." Any operation conducted in whole or in part for the salvaging or reclaiming of any product or material.

(ff) "Seal for Sealing Equipment or Premises." A device installed by the Chief so as to prevent use of the process, fuel-burning, refuse-burning, or control equipment or premises causing the violation or from which violations of this ordinance originate.

(gg) "Smoke." Small gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon, ash, and other combustible material.

(hh) "Stack." Duct, chimney, flue, conduit, or opening arranged for the emission into the outdoor atmosphere of air pollutants.

(ii) "Unit Operation." Methods where raw materials undergo physical change; methods by which raw materials may be altered into different states, such as vapor, liquid or solid without changing into a new substance with different properties and composition.

(jj) "Unit Process." Reactions where raw materials undergo chemical change; where on or more raw materials are combined and completely changed into a new substance with different properties and composition.

ARTICLE II

(2.0) ADMINISTRATIVE ORGANIZATION

(2.0) (15.0) Sec. 2.1 ADMINISTRATIVE ORGANIZATION AND ENFORCEMENT.

(a) This ordinance shall be effective territorially throughout the City of Hammond, Indiana.

(b) The administration and enforcement of this ordinance shall be conducted by the Department of Air Pollution Control, headed by a Chief.

(c) There is hereby created the position of Chief of Air Pollution Control. He shall be appointed by the Mayor.

(d) The Chief shall perform such duties as may be required of him relative to Air Pollution Control, He shall have control of all matters and things pertaining to the work of the Department, and shall supervise the execution of all laws, rules, and regulations pertaining to air pollution as provided in this ordinance.

(e) The Chief shall be qualified by technical training, and have at least 3 years experience in the theory and practice of construction and operation of furnaces, combustion devices, or in the theory and practice of air pollution control and shall be qualified by education and experience to co-operate with scientific, educational, and civic organizations interested in air pollution control.

(15.0) Sec. 2.2 POWERS AND DUTIES OF THE CHIEF.

(a) Make all needful rules and regulations pertaining to the administration.

(b) Institute complaints against all persons violating any provision of this ordinance and institute necessary legal proceedings to prosecute violations of this ordinance and compel the prevention and abatement of air pollution or nuisances arising therefrom.

(c) Examine and approve or disapprove the plans for fuel and refuse-burning equipment, process equipment; and control equipment to be installed, constructed, reconstructed, or altered or added to.

(d) Make inspections and tests of existing and newly installed, constructed, reconstructed, or altered fuel or refuse-burning equipment, process equipment, and control equipment.

(e) Investigate complaints of violations of this ordinance and make inspections and observations of air pollution conditions. Record such investigations, complaints, inspections, and observations.

(f) Approve or reject application for permits, and administer the issuance of certificates of operation, notices or other matters required under the provisions of this ordinance.

(g) Prepare and place before the Air Pollution Control Board for their consideration proposals for additions or revisions to this ordinance, or any other regulation pertaining to air abatement.

(h) Encourage voluntary co-operation by persons or affected groups in the preservation and restoration of the purity of the outdoor atmosphere, and grant a reasonable time to comply with the provisions of this ordinance.

(i) Collect and disseminate information on air pollution control.

(j) Work with planning and zoning agencies for the purpose of co-ordinating activities under provisions of this ordinance and foster the best possible management of the air resources.

(k) Co-operate and work with Federal, interstate, state, county, district, municipal, and other agencies concerned with air pollution, with regard to aerometric studies, abatement programs, public complaints, and other matters to the end that the air resources of Hammond and Lake County shall be best conserved and improved.

(l) Make all needful rules and regulations pertaining to the administration of the Department of Air Pollution Control; said rules and regulations shall be submitted to the Mayor and Department for approval.

(m) Issue all permits, certificates, notices, or other matters required under the provisions of this ordinance; prepare and maintain adequate records thereof; and notify all persons concerned of any decision he may render and provide such persons with an opportunity to be heard as herein set forth.

(n) Report to the Mayor and the Air Pollution Control Board with respect to recommendations for needed additions or revisions of this ordinance.

(o) Do any and all acts which may be necessary for the successful prosecution of the purpose of this ordinance and such other acts as may be specifically enumerated therein as his duties.

(2.0) Sec. 2.3 AIR POLLUTION INSPECTORS.

(a) Air Pollution Inspectors shall be employees of the Department, preferably qualified by technical training in the theory and practice of the construction and operation of combustion and process equipment or in the theory and practice of smoke abatement and air pollution control.

(b) No person employed in the Department shall be directly or indirectly interested in the manufacture, lease, or sale of fuel, combustion or process equipment or gas cleaning devices, or other smoke abatement or air pollution control equipment, or the apparatus or devices connected therewith or any extensions thereof.

(c) The duties of the inspectors shall be to carry out the directions of the Chief in all matters relating to enforcement of this ordinance, and to aid and assist the Chief in the efficient discharge of his duties.

(16.0) Sec. 2.4 AIR POLLUTION CONTROL BOARD.

(a) An Air Pollution Control Board shall be appointed by the Mayor. The Chief may make recommendations to the Mayor for such appointments. This Board shall study the problem of air pollution control within the city, and shall from time-to-time recommend to the Chief appropriate means of air pollution abatement, including needed additions to or revisions of this ordinance.

(b) The Air Pollution Control Board shall consist of not less than seven (7) nor more than nine (9) members. Not more than two (2) members of said Board shall hold any public office. Said board shall consist of at least one of the following: a chemist or engineer, at least one physician licensed to practice medicine in Indiana, and at least one attorney licensed to practice law in Indiana. Two (2) members shall be appointed for a term of one year, two (2) members for a term of two years, and the remainder for a term of three years. Upon expiration of any term, all succeeding terms shall be for a term of three years. This provision shall be implemented by the Mayor on future replacements or vacancies so as to provide for the aforementioned qualified members in an orderly transition from the aforementioned method of appointing Board members.

(c) The Air Pollution Control Board shall elect its own chairman and secretary. A quorum shall consist of a majority of the members of the Board. It shall meet at the call of the chairman, and all members shall serve without compensation. The Mayor shall appoint additional members to fill all vacancies. The Chief shall be an ex-officio member of the Board without the right to vote and shall act as secretary thereof.

(d) The Air Pollution Control Board shall hold a regular meeting at least quarterly and other meetings at such additional times as may be called by the chairman. The chairman shall call a special meeting upon written request of at least three members of the Air Pollution Control Board or at the request of the Chief. The Air Pollution Control Board shall keep minutes of its proceedings which shall clearly show the official actions of the Air Pollution Control Board and the vote of any member.

(e) The Air Pollution Control Board shall confer with and advise the Chief on needed revisions or additions in this or any other ordinance pertaining to air pollution or rules and regulations promulgated thereunder and on any matters concerning air pollution.

(16.0) Sec. 2.5 AIR POLLUTION CONTROL BOARD: MANNER OF TAKING APPEALS. The Air Pollution Control Board is hereby vested with the following jurisdiction and authority:

1. To decide appeals from any decision, ruling, regulation, determination or order made by the Chief under this ordinance, or failure to act upon request within a reasonable period of the directive in the manner and subject to the standards hereinafter set out.

2. To pass upon application for extension of time for compliance or for exemptions of variances in the manner and subject to Article X.

3. To decide all matters referred to it or upon which it is required to pass under this ordinance.

All hearings conducted by the Air Pollution Control Board shall be open to the public. Any person may appear and testify at a hearing, either in person or by a duly authorized representative or attorney. All testimony shall be given under oath.

The Air Pollution Control Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if he is absent or failing to vote, indicating such fact and shall also keep records of its hearings and other official actions. Every order, requirement, decision, or determination of the Air Pollution Control Board shall be filed immediately in the office of the Department of Air Pollution Control of the City of Hammond and shall be a public record.

Members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their official duties upon the approval of the Chief and a majority of the members of the Department within budget limitations.

Any person taking exception to and affected by any final decision, ruling, requirement, rule, regulation or order, or failure to act upon the request of the Chief within a reasonable period of time, may take an appeal to the Air Pollution Control Board as established by this section. Such appeal shall be taken within fifteen (15) days after receiving notice of such decision, ruling, requirement, rule, regulation or order, or failure to act upon filing with the Chief a notice of appeal directed to the Air Pollution Control Board, specifying the ground thereof and the relief prayed for. A fee of twenty-five dollars ($25.00) shall be posted by the appellant at the time of the filing of the appeal to cover the costs of the hearing and shall not be refunded. The Chief shall forthwith furnish to the Air Pollution Control Board all the papers relating to the case. The Air Pollution Control Board not less than ten (10) days after the date of filing the appeal, shall set a date for the hearing, and shall give notice thereof by mail to the interested parties. The Air Pollution Control Board may in its discretion grant continuances. Such an appeal shall act as a stay of the decision, ruling, requirement, rule, regulation, or order in question until the Air Pollution Control Board has taken final action on the appeal. At the hearing any party may appear in person or by agent or attorney, and present evidence, both written and oral, pertinent to the questions and issues involved, and may examine and cross-examine witnesses. The Air Pollution Control Board, after the hearing, shall affirm, modify, or reverse the decision, ruling, requirement, rule, regulation, or order of the Chief, or order him to act. The decision of the Air Pollution Control Board shall be binding on the Chief, and appellant unless reversed by a court of competent jurisdiction.

The procedural provisions of the "Administrative Adjudication and Court Review Act," (Acts 1947, Chapter 365, Sections 1-30, P. 1451) shall govern, and all amendments and modifications thereof, and the rules adopted pursuant thereto, shall apply and govern all proceedings for the judicial review of final administrative decisions hereunder, and the provisions of said Act, insofar as applicable, are adopted and incorporated herein by reference. Reference in said Act to the State of Indiana shall be deemed reference to the City of Hammond, and references in said Act to the Attorney General shall be deemed references to the City Attorney.

The Air Pollution Control Board shall provide a court reporter to take the testimony and preserve a record of all proceedings of the Air Pollution Control Board under this section. The notice of appeal, the notice of hearing, all other documents and pleadings, written motions filed in the proceedings, the transcript of testimony and the findings of fact, and decisions shall be the record of proceedings. The Air Pollution Control Board shall furnish a transcript of such record to any person interested as a party to such hearing upon the payment thereof of seventy-five cents per page for each carbon copy thereof. However, the charges of any part of such transcript ordered or paid for previous to the writing of the original record shall be fifty cents per page.

The Air Pollution Control Board shall not be required to certify any record or file any answer or otherwise appear in any proceeding for judicial review unless the party filing the appeal deposits the sum of seventy-five cents per page, which includes cost of certification. Failure on the part of the appellant to make such deposits shall be grounds for dismissal of the action. Upon judicial review the Air Pollution Control Board shall certify the record.

ARTICLE III

(2.0) STANDARDS AND RECOMMENDED PRACTICES

Sec. 3.1 ADOPTED STANDARDS OR RECOMMENDED PRACTICES. Where reference is made in this ordinance to the standards or recommended practices of national technical societies, associations, or other organizations, such information shall form and be considered an integral part of the ordinance in the same manner and extent as if fully reproduced therein. Not less than two copies of such standards or recommended practices of technical societies, associations, or other organizations shall be kept on file at all times in the office of the Chief; two copies thereof shall be filed in the office of the City Clerk, and shall be available for inspection by the Public.

ARTICLE IV

(3.0) INSTALLATION PERMIT, CERTIFICATE OF COMPLIANCE AND CERTIFICATE OF OPERATION

Sec. 4.1 APPLICATION OR CERTIFICATE OF COMPLIANCE REQUIRED. No person shall construct, install, reconstruct, or alter any process, fuel-burning, refuse-burning, or control equipment pertaining thereto, which may be a source of air contaminant, for use within the City of Hammond until an application, including not less than two sets of properly prepared plans and specifications of the process, fuel-burning, refuse-burning, or control equipment and structures or buildings used in connection therewith, have been filed by the person or his agent in the office of, and has been approved by, the Chief, and until an installation permit has been issued by the Chief for such construction, installation, or alteration. In lieu of such application, such person may file with the Chief at the option of the Chief, a certificate that such process, fuel-burning, refuse-burning or control equipment has been designed to comply with each and all of the applicable provisions and limitations of this Ordinance. Upon the filing of such certificate, the Chief shall forthwith issue an installation permit. The two sets of plans required by this section shall be all of the information required to entitle the person to the issuance of an installation permit based upon such certificate of compliance.

Sec. 4.2 INFORMATION REQUIRED. The Chief may require that applications for installation permits and certificates of operation shall show the form and dimensions of the process, fuel-burning, refuse-burning, or control equipment, together with the description and dimensions of the building or part thereof in which such process, fuel-burning, refuse-burning, or control equipment is to be located, including the means provided for admitting the air for combustion process; the character of the fuel to be used; the maximum quantity of such fuel to be burned per hour; the kind and amount of raw materials processed; the expected air contaminant emission rate; the operating requirements; the use to be made of such process, fuel-burning, refuse-burning, or control equipment; contaminant concentration, gas volume, and gas temperature at the emission point; physical characteristics of particulates emitted; the location and elevation of the emission point relative to nearby structures, window openings, etc., a flow diagram showing the equipment under consideration and its relationship to other processes, if any, and a general description of these processes; and any other reasonable and pertinent information that may be required by the Chief.

Sec. 4.3 EMERGENCY REPAIRS. An emergency repair may be made prior to the application for an installation permit if serious consequences may result if the repair were deferred. When such repair is made, the person concerned shall notify the Chief on the first business day after the emergency occurred and file an application for an installation permit if directed to do so by the Chief.

Sec. 4.4 ACTIONS ON PERMIT APPLICATIONS. An application shall be acted on within thirty (30) calendar days after it is filed in the office of the Chief. The Chief shall notify the person applying for the permit of approval or reasons for rejection of the application in writing. Upon approval of the application and upon the payment of the prescribed fees, the Chief shall issue a permit for the construction, installation, or alteration of such process, fuel-burning, refuse-burning or control equipment.

Sec. 4.5 APPLICABILITY OF THE PERMIT. No construction, installation, reconstruction, or alteration shall be made which is not in accordance with the plans, specifications, and other pertinent information upon which the installation permit was issued without the written approval of the Chief.

Sec. 4.6 PERMIT VIOLATION. Violation of the installation permit shall be sufficient cause for the Chief to stop all work in connection with said permit and he is hereby authorized to seal the installation. No further work shall be done until the Chief is assured that the condition in question will be corrected and that the work will proceed in accordance with the installation permit.

Sec. 4.7 TIME LIMIT ON PERMITS. If construction, installation, reconstruction, or alteration is not completed within one (1) year of the date of the installation permit, the permit shall become void and all fees shall be forfeited, unless an extension of time is warranted and granted by the Chief.

Sec. 4.8 CERTIFICATE OF OPERATION. No person shall operate or cause to be operated any fuel-burning, refuse-burning, process, or control equipment or any equipment pertaining thereto for which an installation permit was required or was issued under this ordinance until an inspection has been made by the Chief. The person responsible for the installation, construction, or alteration of any process, fuel-burning, refuse-burning, or control equipment for which an installation permit is required, shall notify the Chief when the work is completed and ready for final inspection. No equipment shall be operated for any other purpose or in any other manner than that for which the installation permit was approved and for which a certificate of operation has been issued unless otherwise authorized in writing by the Chief. After the installation permit has been issued and it is demonstrated to the satisfaction of the Chief, that the process, fuel-burning, refuse-burning, or control equipment can be operated in compliance with this ordinance, an initial certificate of operation shall be issued by the Chief. Emission tests may be required by the Chief before the issuing of an initial certificate of operation as set forth in Article IV. Said Certificate of operation shall be kept posted on or near the installation for which it was issued. The certificate of operation shall properly identify the equipment to which it pertains and shall specify the class of fuel, type of refuse, type of raw materials used, if any, which have been successfully used in the operating test. The initial certificate of operation shall remain in force until terminated by any one or more of the following actions:

(a) Implementation and institution of Sections 4.6, 4.7.

(b) Execution of Article XI.

Failure to operate successfully under test within the limitations and requirements of this ordinance shall constitute sufficient grounds for ordering changes in the process, fuel-burning, refuse-burning, or control equipment or appurtenances before an initial certificate of operation can be granted. When the Chief refuses to issue a certificate of operation, the Chief is authorized to seal the process, fuel-burning, refuse-burning, or control equipment until the person required to procure the certificate of operation shall have complied with the provisions of this ordinance.

Sec. 4.9 RENEWAL OF CERTIFICATE OF OPERATION. The Chief shall require application of renewal for certificates of operation on those installations for which an installation permit was obtained, and shall require the issuance or renewal of certificates of operation on equipment existing prior to the adoption of this ordinance and collect appropriate fees thereof for such certificates. Such certificates of operation shall not be required more often than once per year, and may be terminated for the same reasons as listed in Section 4.8. The Chief is hereby authorized to seal any equipment for which a certificate of operation is required and has not been issued. Installation permits and certificates of operation shall not be transferable.

Sec. 4.10 DOMESTIC HEATING PLANTS AND DOMESTIC INCINERATORS. Provisions of Sections 4.1 through 4.9 of this Article are not applicable to domestic heating plants, and shall not apply to domestic incinerators.

Sec. 4.11 PERMIT TO SELL OR RENT DOMESTIC INCINERATORS. Any person who sells or rents to another person domestic incinerators which may be used to dispose of combustible refuse by burning and which incinerators are to be used exclusively in connection with any dwelling, which dwelling is designed for and used exclusively as a dwelling for not more than two (2) families, shall first, and annually thereafter, obtain a permit from the Chief to sell or rent such incinerators.

Sec. 4.12 REGISTRATION OF EMISSIONS. The Chief may require the written registration of points of emission of air contaminants, whether by stack, duct, flue, equipment, or by any other means when, in his opinion, such information is necessary for the conduct of the work of the department. A period of sixty (60) days shall be allowed for the filing of such registration. However, in cases of emergency, the Chief may designate any lesser time which he believes to be justified. The Chief is also empowered to notify the owner or agent when, in his opinion, such registration is no longer required.

Sec. 4.13 CONTENT OF REGISTRATIONS. The written registration of points of emission may include the following information: the location of the source of emission, size of outlets, height of outlets, rate of emission, composition of emission, temperature of effluent or emission, nature of the equipment creating the emissions, and any other pertinent information specified by the Chief.

Sec. 4.14 PROSECUTION OF ORDINANCE VIOLATIONS. The issuance by the Chief of any installation permit or certificate of operation shall not be held to exempt the person to whom the permit or certificate was issued or who is in possession of the same, from prosecution for the emission of air contaminants prohibited by this ordinance.

ARTICLE V

(2.0) SCHEDULE OF FEES

Sec. 5.1 FILING FEES. Fees for the inspection of plans, and issuing installation permits, for the installation, erection, construction, reconstruction, alteration of, or addition to, fuel-burning, combustion or process equipment or devices, and installation of apparatus or devices for the prevention or arresting of the discharge of smoke, particulate, liquid, gaseous, or other matter shall be as follows:

Fuel-burning equipment used for space heating, steam and hot water or power generation for each unit:

Of a capacity of 650,000 BTU/Hr. and less than 2,880,000 BTU/Hr	$10.00
Of a capacity of 2,880,000 BTU/Hr. or more	$15.00

Refuse-burning equipment, for each unit:

With less than fifteen square feet of grate area	$10.00
With fifteen or more square feet of grate area	$15.00

Process equipment or control devices:

Per one unit operation or one unit process creating atmospheric pollution or any device controlling atmospheric pollution	$10.00

Permit to sell or rent domestic incinerators	$10.00

Sec. 5.2 ANNUAL CERTIFICATE OF OPERATION FEES. Fees shall be as follows for the issuance or re-issuance of Certificate of Operation which may require annual inspection of fuel-burning, combustion or process equipment or devices:

Fuel-burning equipment used for space heating, steam and hot water or power generation, for each unit:

Of a capacity of 650,000 BTU/Hr. and less than 2,880,000 BTU/Hr.	$ 5.00
Of a capacity of 2,880,000 BTU/Hr. or more	$10.00

Refuse-burning equipment, for each unit:

With less than fifteen square feet of grate area.	$ 5.00
With fifteen square feet or more of grate area	$10.00

Process equipment or control devices:

Per one unit operation or one unit process creating atmospheric pollution or any device controlling atmospheric pollution	$ 5.00

Sec. 5.3 PAYMENT OF FEES. All fees or penalties prescribed for the issuance of permits, licenses, or certificates, or for the inspection of plans, premises, or equipment, under any provision of this chapter, shall be paid to the City Controller, who shall render to the person making such payment a receipt stating the amount and purpose for which such fee or penalty has been paid, a duplicate of which shall be made part of the records of the Department. All fees and penalties thus received shall be deposited with the City Controller.

Sec. 5.4 FEES ARE DEBT DUE THE CITY - SUIT FOR. All fees or penalties prescribed for, the payment of which is required under any provision of this Chapter, shall constitute a debt due the City. The City Attorney shall, at the direction of the Chief, institute civil suit in the name of the City to recover the amount of any such unpaid fee or penalty. No civil judgment, or any act by the City Attorney, the Chief, or the violator, shall bar or prevent a criminal prosecution for each and every violation of this chapter.

ARTICLE VI

(2.0) EMISSION LIMITATIONS AND PROHIBITIONS - STANDARDS OF MEASUREMENT

(9.0)

(50.1.2) Sec. 6.1 VISIBLE EMISSIONS. It shall be unlawful for any person to discharge into the atmosphere, or cause to be so discharged, from any combustion or process equipment or device, vehicle, incinerator, or open fire whatsoever any air contaminant for a period or periods aggregating more than five minutes in any one hour which is:

a. As dark or darker in shade as that designated as No. 2 on the Ringelmann Chart, as published by the United States Bureau of Mines, or

b. Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subsection (a) of this section.

(51.5) Sec. 6.2 EMISSION OF PARTICULATE MATTER FROM FUEL-BURNING AND REFUSE-BURNING EQUIPMENT.
(51.9)

a. No person shall cause, suffer, or allow to be emitted into the outdoor atmosphere from any fuel-burning equipment or premises, or to pass a convenient measuring point near the stack outlet, particulate matter in the gases to exceed 0.60 pounds per 1,000,000 BTU heat input for installations using less than 10,000,000 BTU per hour total input. For a single unit using greater than 10,000,000 BTU per hour total input, the allowable particulate emission limitation will be determined from the following table:

Heat input in millions of British Thermal Units per hour	Maximum allowable emission of particulate matter in pounds per million British Thermal Units per hour, heat input
10 or less	0.60
50	0.46
100	0.41
500	0.32
1,000	0.29
2,500	0.25
5,000	0.225
7,500	0.210
10,000 or more	0.20

For heat inputs between any two consecutive heat inputs in the table, the maximum allowable particulate matter emission shall be determined by graphical interpolation, using logarithmic graph paper.

b. The burning of refuse in fuel-burning equipment is prohibited except in equipment from which no visible emission in excess of that permitted by Section 6.1, no air pollutants in excess of that permitted by Section 6.2 are emitted, and no odorous materials arising from the installation are observable beyond the premises on which the installation is located.

(50.1)
(51.9) Sec. 6.3 EMISSION OF PARTICULATE MATTER FROM INCINERATORS.

a. No person shall cause, suffer, or allow to be emitted into the outdoor atmosphere from any incinerator, refuse-burning equipment or premises, or to pass a convenient measuring point near the stack outlet, particulate matter in gases to exceed 0.65 pounds for each 1,000 pounds of dry flue gases adjusted to 12% carbon dioxide (excluding the effects of any auxiliary fuel); or odorous material arising from the installation which is detectable beyond the premises on which the installation is located.

b. No incinerator shall be used for the burning of refuse unless such incinerator is a multiple chamber incinerator. Existing incinerators which are not multiple chamber incinerators, may be altered, modified, or rebuilt as may be necessary to meet this requirement, or found by the Chief to be of equivalent efficiency.

(50.1.1) Sec. 6.4 EMISSION OF PARTICULATE MATTER FROM INDUSTRIAL PROCESS EQUIPMENT. The maximum allowable emission of particulate matter from any source whatever except fuel-burning and refuse-burning equipment shall be determined from Table I, as set forth on page 263 hereof. To use the table, find the process weight per hour in the table, and note the allowable rate of emissions in pounds per hour next to the process weight per hour.

For those processes whose process weight exceeds 200 tons/Hr., the maximum allowable emission may exceed that shown in Table I provided that the concentration of particulate matter in the discharge gases is less than 0.05 grains per standard cubic foot of gas.

(51.16) Sec. 6.5 STORAGE OF PETROLEUM OR OTHER VOLATILE PRODUCTS. A person shall not place, store or hold in any stationary tank, reservoir or other container of more than 65,000 gallons capacity any petroleum product or mixture of products having a vapor pressure of 2.0 pounds per square inch absolute or greater under actual storage conditions, unless such tank, reservoir, or other container is a pressure tank maintaining working pressures sufficient at all times to prevent hydrocarbon vapor or gas loss to the atmosphere, or is designed and equipped with one of the following vapor loss control devices, properly installed, in good working order and in operation:

a. A floating roof, consisting of a pontoon-type or double-deck type roof, resting on the surface of the liquid contents and equipped with a closure seal, or seals, to close the space between the roof edge and tank wall. The control equipment provided for in this paragraph shall not be used if the gasoline or petroleum absolute or greater under actual storage conditions. All tank gauging and sampling devices shall be gas tight except when gauging or sampling is taking place.

b. A vapor recovery system, consisting of a vapor-gathering system capable of collecting the hydrocarbon vapors and gases discharged and a vapor-disposal system capable of processing such hydrocarbon vapors and gases so as to prevent their emission to the atmosphere and with all tank gauging and sampling devices gas tight except when gauging or sampling is taking place.

c. Other equipment of equal efficiency, provided plans for such equipment are submitted to and approved by the Chief.

(51.16) Sec. 6.6 VOLATILE PETROLEUM DISTILLATE LOADING INTO TANKS, TRUCKS, TRAILERS AND RAILROAD TANK CARS. A person shall not load volatile petroleum distillates into any tank, truck, or trailer, or railroad car from any loading facility unless such loading operation utilizes a submerged fill pipe or such loading facility is equipped with a vapor collection and disposal system or its equivalent, properly installed, in good working order, in operation and approved by the Chief.

For purposes of this section any petroleum distillate having a Reid vapor pressure of 4 pounds or greater shall be included by the term "volatile petroleum distillate."

For the purpose of this section, the term "submerged fill pipe" is defined as any fill pipe the discharge opening of which is entirely submerged when the liquid level is 6 inches above the bottom of the tank. "Submerged fill pipe" when applied to a tank which is loaded from the side is defined as any fill pipe the discharge opening of which is entirely submerged when the liquid is 18 inches above the bottom of the tank.

(50.2) Sec. 6.7 SULFUR OXIDES. (As amended by Ordinance No. 3672)

ORDINANCE NUMBER 3672

An Ordinance amending Ordinance No. 3522 being entitled "An Ordinance to Regulate Smoke and Control Air Quality within the City of Hammond, Indiana, and to establish the Section of Air Control within the Department of Health."

BE IT ORDAINED by the Common Council of the City of Hammond, Indiana:

Sec. 1 That section 6.7 entitled "Sulfur Oxides" is hereby amended to read as follows:

(50.2) Sec. 6.7 SULFUR OXIDES.

a. No person, persons, company, corporation, business or industry shall cause, let, permit, suffer, or allow any emission of sulfur oxides which of itself results in ground level concentrations of sulfur oxides at any given point in excess of 0.5 ppm (volume) in the period of any hour and average exposure shall not exceed 0.1 ppm (volume) of sulphur oxides in any 24 hour period. These limitations shall not apply to ground level concentrations occurring on the property from which such emission occurs, provided such property, from the emission point to the point of any such concentration is controlled by the person, persons, company, corporation, business or industry responsible for the emission.

b. No person, persons, company, corporation, business or industry shall cause or permit the use, or, if intended for use in the City of Hammond, the purchase, sale, offer for sale, storage or transportation, of a fuel, which, as determined by the methods of the American Society for Testing and Materials, contains more than the following percentages of sulfur by weight:

For a period of two (2) years, beginning one (1) year after the effective date of this amendment:

fuel: 2.5 percent

For a period of eighteen months, beginning three years after the effective date of this amendment:

fuel: 2.0 percent

Thereafter:

fuel: 1.5 percent

c. When periods of stagnation, for 24 hours or greater, occur, as defined by the Chief of the Department of Air Pollution Control, the director shall have the power to implement a Pollution Emerging Episode Control Plan, whereby plants have an annual fuel consumption of 60,000 tons of coal or 14,500,000 gallons of oil are required either to switch to a low sulfur fuel (less than 1.5% sulfur by weight) or curtail emission of sulfur dioxide pollution during this period until the director determines that the stagnation period no longer exists.

Sec. 2. This Ordinance shall be in full force and effect immediately after its passage, signing by the President of the Common Council, approval by the Mayor and publication according to law.

/s/ George W. Carlson, President

ATTEST: /s/ Stanley Kulik, City Clerk

APPROVED by the Mayor on the 17th day of April, 1970.

/s/ Joseph E. Klen, Mayor

PASSED by the Common Council of the City of Hammond, Indiana on the 13th day of April, 1970 presented to the Mayor for his approval or rejection and APPROVED by the Mayor on the 17th day of April, 1970.

/s/ Stanley Kulik, City Clerk
By: D. Kometz, Council Secretary

(9.0) Sec. 6.8 STACK EMISSION TEST METHOD. Stack emission tests shall be undertaken by generally recognized standards or methods of measurements. The latest of the following codes: the "A.S.M.E. Test Code for Dust Separating Apparatus," the "A.S.M.E. Test Code for Determining Dust Concentrations in Gas Streams," and the "Los Angeles County Source Testing Manual," or any other mutually agreeable testing procedure shall be used.

(51.13) Sec. 6.9 OPEN BURNING.

A. No person shall dispose of refuse by open burning, or cause, suffer, allow, or permit open burning of refuse, unless a permit therefore has been obtained from the Chief.

a. Any person required by this section to secure a Refuse-Burning Permit may apply for a continuing permit which, when issued, shall authorize the burning of combustible refuse during the period covered thereby, such period not to exceed one (1) year.

B. The open burning of refuse may be permitted when it can be shown by a person that such open burning is absolutely necessary and in the public interest. Any person intending to engage in open burning of refuse shall file a request to do so with the Chief. The application shall state the following but are not limited to:

a. The name, address, and telephone number of the person submitting the application.

b. The type of business or activity involved.

c. A description of the proposed equipment and operating practices; the type, quantity, and composition and amount of air contaminants to be released to the atmosphere.

d. The schedule of burning operations.

e. The exact location or locations where such open burning may be carried on.

f. The reason why no method other than open burning can be used for disposal of the trade waste.

g. Evidence that the proposed open burning has been approved by the Hammond Fire Department.

C. The Chief may, in his discretion, impose other reasonable conditions necessary to prevent the creation of a nuisance.

(51.13) Sec. 6.10 PROHIBITION OF SALVAGE OPERATIONS BY OPEN BURNING. No person shall conduct or cause or permit the conduct of a salvage operation by open burning.

(50.7) Sec. 6.11 NUISANCE ABATEMENT.

A. It is unlawful for any person to permit or cause the emission of such quantities of air contaminants from whatever source in such place or manner as to be detrimental to any person or to the public or to endanger the health, comfort, or safety of any person or the public, or in such manner as to cause or have a tendency to cause injury or damage to property or business. Each day wherein a violation of this section occurs shall constitute a separate offense. Any act or emission of air contaminants from any single or multiple source in violation or excess of the limitations established in this ordinance shall be unlawful, and may be ordered abated by the Chief. Such abatement may be in addition to the fines and penalties herein provided.

B. It shall be unlawful for any person to cause or permit the handling, transportation, or disposition of any substance or material which is likely to be scattered by the wind, or is susceptible to being wind-borne, without taking reasonable precautions or measures to minimize atmospheric pollution. It shall be unlawful for any person to operate or maintain, or cause to be operated or maintained, any premises, open area, right of way, storage pile of materials, or vehicle, or construction, alteration, demolition, or wrecking operation, or any other enterprise, which involves any material or substance likely to be scattered by the wind, or susceptible to being wind-borne, without taking reasonable precautions or measures to minimize atmospheric pollution. No person shall maintain or conduct, or cause to be maintained or conducted, any lot or roadway unless such lot or roadway is maintained in such manner as to minimize atmospheric pollution. The Chief shall co-operate with private and public agencies in the problem of controlling wind-borne pollutants.

C. Nothing in any section of this ordinance relating to regulation of emission of air contaminants shall in any manner be construed as authorizing or legalizing the erection or maintenance of a nuisance.

D. Upon refusal or failure of any person to obey the order of abatement, proceedings may be had under the Indiana Administration Adjudication Act (Acts of the Indiana General Assembly, 1947, Ch. 365), which Act, insofar as it is applicable, is made a part of this ordinance by reference. References in said Act to the Attorney General shall be deemed to refer to the city attorney; and to the State of Indiana, to the City of Hammond, Indiana.

Provided, however, that in the City of Hammond, the Department of Air Pollution Control shall be represented by the city attorney or a special city attorney employed by the city and the department.

(7.0) Sec. 6.12 BREAKDOWN OF EQUIPMENT. Emissions exceeding any of the limits established in Article VI as a direct result of upset conditions in or breakdown of any process, fuel-burning, refuse-burning or control equipment or related operating equipment beyond the control of the person owning or operating such equipment shall not be deemed to be in violation of Article VI provided that the owner or operator immediately advises the Chief of the circumstances and outlines a corrective program acceptable to the Chief.

(2.0) Sec. 6.13 CIRCUMVENTION. No person shall build, erect, install or use any article, machine, equipment or other contrivance, the sole purpose of which is to dilute or conceal an emission without resulting in a reduction in the total release of air contaminants to the atmosphere. Increase in stack height or construction so as to increase stack exit velocity of gases shall not constitute a violation of this section.

ARTICLE VII

(12.0) INTERNAL COMBUSTION ENGINES

(12.0) Sec. 7.1 INTERNAL COMBUSTION ENGINES. No person shall operate, or cause to be operated, upon any street, highway, public place, stream or waterway, or private premises within the City of Hammond, any internal combustion engines of any motor vehicle, boat, or other vehicle, while stationary or moving, which emits from any source whatsoever any air contaminant for a period or periods aggregating more than three minutes in any one hour which is:

a. As dark or darker in shade as that designated as No. 2 on the Ringelmann Chart, as published by the United Stated Bureau of Mines, or

b. Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subsection (a) of this section.

(6.0) Sec. 7.2 COMPLIANCE WITH FEDERAL EMISSION STANDARDS. The Federal Clean Air Act of 1963 (P.L. 88-206), as amended in 1965 (P.L. 89-272), provides for control of air pollution from new motor vehicles beginning with the 1968 model year. It shall be unlawful to make any changes or modifications whatsoever to any such control devices which increases the emission of air contaminants into the atmosphere.

(15.0) Sec. 7.3 ENFORCEMENT. Enforcement of provisions of this article may be carried out by authorized police department personnel.

ARTICLE VIII

(2.0) CO-ORDINATION OF DEPARTMENTS

Sec. 8.1 ISSUANCE OF PERMITS. No permit for the erection, construction, or alteration of any building, plant, or structure, related in any manner ot fuel-burning equipment, or chemical processing equipment, shall be issued by the building commissioner or by any department, bureau, division, officer, or employee of the City until the Chief of the Air Pollution Control Section has issued an installation permit covering the equipment under his jurisdiction, to be used in the building, plant, or structure as provided within this ordinance.

Sec. 8.2 CO-ORDINATION. It shall be the duty of the various departments, bureaus, divisions, officers, and employees of the City, having charge of the inspection of the premises in which such equipment is located, to co-operate with the Chief to determine that the execution of the work os authorized by said permit shall be done in conformity with the approved plans and specifications fixed by the Chief.

ARTICLE IX

(9.0) SAMPLING AND TESTING

Sec. 9.1 AUTHORITY TO CONDUCT TESTS.

a. The Chief is hereby authorized to conduct or cause to be conducted, any test or tests of any new or existing process, fuel-burning, refuse-burning, or control equipment the operation of which, in his opinion, may result in emissions in excess of the limitations in this ordinance or when, in his judgment, there is evidence that emissions from any such equipment are exceeding any emission limitation prescribed in this ordinance. Upon notification by the Chief that emission tests are considered necessary, a person may elect to conduct such tests himself. In this event, the person shall notify the Chief of this decision and of the time and date of such testing. All tests so conducted shall be in a manner acceptable to the Chief, and a complete detailed test report of such tests shall be submitted to the Chief. The Chief may stipulate that a representative of his office be present during the conduct of such tests and may stipulate a reasonable time limit for the completion of such tests.

b. Nothing in this section concerning tests conducted by and paid for by any person or his authorized agent shall be deemed to abridge the rights of the Chief or his representatives to conduct separate or additional tests of any process, fuel-burning, refuse-burning, or control equipment on behalf of the City at a reasonable time and at the City's expense except as provided in Section 9.3 below.

Sec. 9.2 TEST FACILITIES AND ACCESS. It shall be the responsibility of the owner or operator of the operation tested to provide, at his expense, reasonable and necessary openings in the system or stack, and safe and easy access thereto, to permit technically valid samples and measurements to be taken. All new sources of air contaminants erected after the effective date of this ordinance may be required by the Chief to provide adequate openings in the system or stack, and safe and easy access thereto, to permit technically valid measurements and samples to be taken. If a person refuses to supply test openings, access scaffolding, and other pertinent facilities requested for the purpose of conducting valid emission tests by the Chief, the Chief shall notify such person to show cause before the Chief on a day certain, not less than ten (10) nor more than twenty (20) days from the date of notice, why the equipment should not be sealed.

Sec. 9.3 TEST COSTS. If emission tests conducted as a result of procedures outlined in Section 9.1 substantiate that a violation exists, the person or persons liable for the violation shall be responsible for paying all attendant costs for conducting said tests. If said tests do not substantiate that the violation exists, then the City shall be responsible for paying all attendant costs for conducting said tests. This latter condition shall not obviate the owner's or operator's responsibilities set forth in Section 9.2. Provided, however, if the person liable elects to conduct his own stack emission tests as stipulated in Section 9.1 and Section 8.1, the person so electing shall pay for these tests irrespective of their outcome.

ARTICLE X

(5.0) VARIANCES

Sec. 10.1 VARIANCE CLAUSE. Where emission sources in existence prior to the adoption of this ordinance do not meet the emission limitations noted in Article VI above, then a program to meet the emission limitations stipulated shall be developed and offered to the Chief by the owner or seller of the equipment causing the emission. This program shall be submitted upon the request of and within such times as shall be fixed by the Chief, and after said program has been approved by the Chief, the owner or seller of the equipment causing the emission shall not be in violation of this ordinance so long as said program is observed. In evaluating such a program of improvement, the Chief shall take into consideration the following factors:

a. Action taken to control atmospheric pollution within emission limitations in effect prior to this ordinance.

b. Efficiency of any existing control equipment relative to that which would be required to meet emission limitations of this ordinance.

c. Temporary interim control measures intended to minimize existing pollution levels.

d. The effect the source of emission has on ambient air quality generally or in the immediate vicinity of the source.

e. The degree of control in relation to other similar facilities which produce air pollution.

f. The age and prospective life of the facility in question.

Reports consisting of information required by the Chief indicating the progress of these programs shall be submitted annually to the Chief by the owner or seller of the equipment causing the emission in question. If the program is not followed, the Chief may suspend the program and issue a violation notice. In the event the owner or seller of the equipment causing the emission and the Chief cannot evolve a mutually acceptable program of improvement, the matter shall be referred to the Air Pollution Control Board for resolution and determination of an acceptable program, which shall be binding upon both the owner or seller and the Chief. In making their determination, the Air Pollution Control Board shall also take into consideration the factors noted in (a) through (f) above.

Sec. 10.2 SPECIFIC VARIANCES.

A. Where the presence of uncombined water is the only reason for failure of an emission to meet the requirements of (a) and (b) of Section 6.1 of this ordinance, such section shall not apply.

B. A specific variance may be granted by the Chief, with the approval of the Air Pollution Control Board, provided that the requested variance has no known method of control or abatement or, in the opinion of the Chief and the Air Pollution Control Board, it is impractical.

C. Upon request of the Chief, an annual report on progress of research to control emissions from processes for which a variance was obtained under Section 10.2B shall be submitted to the Chief and by him to the Air Pollution Control Board. As soon as methods of control are practicable, in the opinion of the Chief and the Air Pollution Control Board, such controls shall be installed.

D. Existing process units which are equipped with cyclone separators, electrostatic precipitators or other dust collection devices or systems having an overall efficiency of not less than 99 percent are considered in compliance with Section 6.4 of this ordinance.

ARTICLE XI

(2.0) SEALING

Sec. 11.1 SEALING. After previous notification of three or more violations of this ordinance within a 12-month period, in respect to the emission of air contaminants, a violator shall be notified by registered mail to show cause before the Chief within 10 days why the offending equipment shall not be sealed. The notice shall be directed to the last address of the person to be notified or if the person or his whereabouts is unknown, then the notice shall be posted on or near the premises at which the violations have occurred. If upon the hearing, at which the violator or his agent or attorney may appear and be heard, the Chief finds that adequate corrective measures have not been taken, he shall seal the equipment until such time as corrective measures are taken. The decision may be appealed to the Air Pollution Control Board, and such appeal shall stay the sealing until the Air Pollution Control Board renders a decision. It shall be unlawful for any person to break a seal that has been duly affixed by the Chief or his authorized representative unless authorized in writing by the Chief to do so.

ARTICLE XII

(15.0) RIGHT OF ENTRY

Sec. 12.1 RIGHT OF ENTRY FOR INSPECTION. Any person who in any manner hinders, obstructs, delays, resists, prevents, or in any manner interferes or attempts to interfere with the Chief, or his authorized representatives, or police officers, in the performance of any duty enjoined, or shall refuse to permit the Chief or such representatives or officers to perform their duty by refusing them or either of them, entrance at reasonable hours to any premises in which the provisions of this ordinance are being violated or are suspected of being violated, or refuse to permit the inspection or examination of such premises for the purpose of the enforcement of this ordinance, shall be subject to the fines and penalties hereinafter provided.

ARTICLE XIII

(14.0) CONFIDENTIALITY OF RECORDS

Sec. 13.1 CONFIDENTIALITY. Any records or other information furnished to or obtained by the Chief or Air Pollution Control Board or their representatives concerning one or more air contaminant sources, which records or information relate to processes or production unique to the owner or operator or which would tend to affect adversely the competitive position of such owner or operator, shall be only for the confidential use of the Chief, the Air Pollution Control Board and their representatives, unless such owner or operator shall expressly agree to their publication or availability to the general public. Nothing herein shall be construed to prevent the use of such records or information by any department, agency, or officer of the city in compiling or publishing analyses or summaries relating to the general condition of the outdoor atmosphere; provided that such analyses or summaries do not identify, directly or indirectly, any owner or operator or reveal any information otherwise confidential under this Section.

ARTICLE XIV

(2.0) PERSONS LIABLE

Sec. 14.1 PERSONS LIABLE. All persons owning, operating, or in charge or control of any equipment or premises who shall cause, suffer, allow, permit, or participate in any violation of this ordinance shall be individually and collectively liable for any penalties imposed by this ordinance. This liability shall include any person who shall refuse to comply with or who shall assist in the violation of any of the provisions of this ordinance.

ARTICLE XV

(15.0) PENALTIES FOR VIOLATIONS

Sec. 15.1 PENALTIES. Any person who shall violate any of the provisions of this ordinance shall upon conviction thereof, pay a fine of not less than ten dollars ($10.00) nor more than three hundred dollars ($300.00) for each violation, to which may be added imprisonment for a term not to exceed one hundred eighty (180) days.

Each day's violation shall constitute a separate offense and an unlawful emission from each chimney, smoke stack, open fire, or other point of discharge shall also constitute a separate offense. A separate and distinct offense shall be regarded as committed each day on which such person shall continue or permit any such violation to exist after notification thereof by the Chief.

Any abatement provided for in Article VI shall be in addition to any penalties prescribed in this Section.

ARTICLE XVI

(15.0) ALTERNATIVE PROCEDURE FOR VIOLATIONS

Sec. 16.1 VIOLATION NOTICE. If the Chief has reason to believe an emission from any source violates the provisions of Article VI hereof, he may instead of acting under Article XV issue to the owner or operator of the source in question a violation notice.

A. Any person who is issued a violation notice may, within thirty (30) days from the date of receipt of said notice, submit data to the Chief indicating reasons why he does not believe he was in violation of Article VI. The Chief shall review the data submitted and within fifteen (15) days affirm or withdraw the violation notice by informing, in writing, the person receiving said notice of the decision to affirm or withdraw. In the case where such data is not submitted to the Chief within the 30 days stipulated, the violation shall be considered still in force and affirmed.

B. In the case of a violation of Article VI, the person cited, within ten (10) days of receipt of the Chief's decision to affirm the violation notice as provided for in Section 16.1 (or within ten (10) days of a decision of the Air Pollution Control Board, should appeal be taken from the Chief's decision to affirm the violation notice), may ask that emission tests be performed to determine the extent of emissions from the operation which is the subject of the particulate emission violation notice. If the emission tests indicate that the total amount of particulate matter exceeds the maximum allowable emission standard applicable to the operation under Article VI, the violation notice shall be considered substantiated. If the emission tests indicate that the total amount of particulate matter is equal to or less than the emission standard applicable to the operation under Article VI, then the violation notice shall be considered void.

ARTICLE XVII

(2.0) PARTY TO CLAIMS OR ACTIONS

Sec. 17.1 PARTY TO CLAIMS OR ACTIONS. All claims or actions filed by or against the Chief or the Air Pollution Control Board shall be brought in the name of or filed against the City of Hammond, Indiana, a municipal corporation.

ARTICLE XVIII

(2.0) SEVERABILITY

Sec. 18.1 SEVERABILITY. In any clause, sentence, paragraph, or part of this ordinance, or the application thereof to any person, firm, corporation, or circumstances, shall for any reason be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair, or invalidate the remainder of this ordinance, and the application of such provision to other persons, firms, corporations, or circumstances, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person, firm, corporation, or circumstances involved. It is hereby declared to be the legislative intent of this body that this ordinance would have been adopted had such invalid provisions not been included.

ARTICLE XIX

(2.0) REPEAL CLAUSE

Sec. 19.1 REPEAL CLAUSE. All laws heretofore passed by the Common Council of the City of Hammond dealing with the problem of air pollution, and specifically including Ordinance 2183 entitled "Smoke," (19.201 to 19-202), are hereby repealed.

ARTICLE XX

(2.0) This ordinance shall be in full force and effect from and after its passage, signing by the President of the Common Council, approval by the Mayor and publication according to law.

TABLE I

Allowable Rate of Emission Based on Process Weight Rate(a)

PROCESS WEIGHT RATE		RATE OF EMISSION
Lb./Hr.	Tons/Hr.	Lb./Hr.
100	0.05	0.551
200	0.10	0.877
400	0.20	1.400
600	0.30	1.830
800	0.40	2.220
1,000	0.50	2.580
1,500	0.75	3.380
2,000	1.00	4.100
2,500	1.25	4.760
3,000	1.50	5.380
3,500	1.75	5.960
4,000	2.00	6.520
5,000	2.50	7.580
6,000	3.00	8.560
7,000	3.50	9.490
8,000	4.00	10.400
9,000	4.50	11.200
10,000	5.00	12.000
12,000	6.00	13.6
16,000	8.00	16.5
18,000	9.00	17.9
20,000	10.00	19.2
30,000	15.00	25.2
40,000	20.00	30.5
50,000	25.00	35.4
60,000	30.00	40.0
70,000	35.00	41.3
80,000	40.00	42.5
90,000	45.00	43.6
100,000	50.00	44.6
120,000	60.00	46.3
140,000	70.00	47.8
160,000	80.00	49.0
200,000	100.00	51.2
400,000	200.00	58.8

(a) Interpolation of the data in this table for process weight rates up to 60,000 lb./hr. shall be accomplished by use of the equation E equals 4.10 $P^{0.67}$, and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lb./hr. shall be accomplished by use of the equation E equals 55.0 $P^{0.11}-40$, where E equals rate of emission in lb./hr. and P equals process weight in tons/hr.

INDIANAPOLIS AIR POLLUTION
CONTROL BOARD
RULES, REGULATIONS & STANDARDS

(1.0)
(2.0) ARTICLE 1 - SCOPE AND DEFINITIONS

(2.0) Section 1.2. SCOPE. In order to achieve and maintain such a reasonable degree of purity of the air in and above the City of Indianapolis and its immediately surrounding territory as shall be consistent with maximum employment and full industrial development, and as shall be technically feasible, economically reasonable and necessary for the protection of the normal health, the general welfare, the property and the people of Indianapolis and its immediately surrounding territory, there is established within the Executive Department as herein provided a Bureau of Air Pollution Control administered by a Director and an Air Pollution Control Board with provisions for:

(a) Registration of Air Pollution sources.

(b) Making and enforcement of rules and regulations.

(c) Issuance of permits for the installation, construction, addition or alteration of process, fuel-burning, refuse-burning or control equipment pertaining thereto which may be a source of air contaminant, and establishing fees therefor.

(d) Inspections and tests of process, fuel-burning, refuse-burning, and control equipment pertaining thereto.

(e) Issuance of certificates of operation.

(f) Prohibition of certain acts causing air pollution.

(g) Fines and penalties for violations.

(1.0) Section 1.3. DEFINITION OF TERMS.

(1) AIR CONTAMINANT - Particulate matter, dust, fumes, gas, mist, odors, smoke, soot or vapor, or any combination thereof, also radio-active substances.

(2) AIR CONTAMINANT SOURCE - Any and all sources of emission of air contaminants, whether privately or publicly owned or operated.

(3) AIR POLLUTION - Presence in the outdoor atmosphere or ambient air of one or more air contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant or animal life or to property, or which unreasonably interfere with the comfortable enjoyment of life and property.

(4) AMBIENT AIR - Any surrounding air.

(5) ASME - The American Society of Mechanical Engineers.

(6) ASTM - The American Society for Testing and Materials.

(7) AICHE - American Institute of Chemical Engineers.

(8) ATMOSPHERE - The air that envelops or surrounds the earth.

(9) BOARD - The Indianapolis Air Pollution Control Board.

(10) BTU - (British Thermal Unit) The quantity of heat required to raise one pound of water from 59° to 60° F.

(11) BUREAU - Bureau of Air Pollution Control.

(12) CHIMNEY OR STACK - Any conduit, duct, vent, flue, or opening of any kind whatsoever, arranged to conduct any product, such as particulate, gaseous, or effluent emissions, into the open air or atmosphere.

(13) COMBUSTION FOR INDIRECT HEATING - The combustion of fuel to produce usable heat that is to be transferred through a heat-conducting material barrier or by a heat storage medium to a material to be heated so that the material being heated is not contacted by, and adds no substance to the products of combustion.

(14) DIRECTOR - Director of the Indianapolis Bureau of Air Pollution Control.

(15) DOMESTIC HEATING PLANT - A device generating heat for a single family residence, or for any structure designed and used exclusively as a dwelling for three families or less. Without limiting the generalities of the foregoing, this term also includes hot water heaters, stoves, and space heaters used in connection with the foregoing establishments.

(16) DOMESTIC REFUSE-BURNING EQUIPMENT - Any refuse-burning equipment or incinerators used for a single family residence, or with any structure designed and used exclusively as a dwelling for three families or less.

(17) DUST - Solid particulate matter released into, or carried in, the atmosphere by natural forces or by any fuel-burning, combustion, or process equipment or device, or by construction work, or by manual, mechanical or industrial processes, including but not restricted to crushing, grinding, milling, drilling, demolishing, shoveling, sweeping, bagging, covering, conveying, transferring, transporting, and the like.

(18) DUST SEPARATING EQUIPMENT - Any device for separating dust from the gaseous medium in which it is carried.

(19) EQUIPMENT -

(A) EXISTING - Things, such as machines, devices, articles, contrivances, or installations which are in being and have not been abandoned as further defined herein on the effective date of this ordinance or actual construction was lawfully begun or design was more than 50% completed prior to such effective date, except that any such existing equipment, machine, device, article, contrivance, or installation which subsequent to the effective date of this ordinance, is altered, repaired or rebuilt at a cost of 30% or more of its replacement cost, shall be deemed to be new as defined in this ordinance, and except that the cost of air pollution control equipment and the cost of its installation on existing equipment is not to be construed as a cost of altering, repairing or rebuilding such existing equipment. For the purpose of this ordinance abandon shall mean the cessation of the use of equipment, machine, devices, articles, contrivances or installation for a period in excess of one year prior to the enactment of this ordinance.

(B) NEW - Any equipment, the design of which is less than 50% completed on the effective date of these regulations. If any existing equipment is to be altered at a cost of 30% or more of its replacement cost, it shall be considered new equipment. Any equipment which is altered or modified such that the amount of air contaminant emissions is materially increased shall be considered new equipment. The cost of air pollution control equipment and the cost of its installation on existing equipment is not to be considered as a cost of altering, repairing or rebuilding such existing equipment.

(20) FLAMMABLE MATERIAL - Material that will ignite and burn. Such materials shall be considered as flammable even though flame-proofed, fire retardant treated, or plastered.

(21) FLY ASH - Particulate matter capable of being gas-borne or air-borne. Consisting essentially of fused ash and/or burned or unburned material resulting from combustion of fuel or refuse.

(22) FUEL-BURNING OR COMBUSTION EQUIPMENT - Any furnace, incinerator, boiler, fuel or refuse-burning equipment, device, contrivance, and apparatus that is used for the burning of fuel or other combustible material, or used in connection with any process which generates heat and emits products of combustion; and shall include methods or forms of manufacturing, chemical, metallurgical or mechanical processing which emits smoke, particulate, gas or other matter. The above shall include all appurtenances thereto including ducts, breeching, control equipment, fly ash or dust collector, electric precipitator, smoke arresting or prevention equipment, fuel or ash handling equipment, stacks and chimneys.

(23) FUMES - Gases or vapors that are of such character as to cause air pollution.

(24) FURNACE - An enclosed space provided for the ignition and/or combustion of fuel.

(25) GASOLINE - A petroleum distillate having a Reid vapor pressure of 4 pounds or over.

(26) IIA - Incinerator Institute of America.

(27) INCINERATOR - Combustion apparatus designed for high temperature operation in which solid, semi-solid, liquid, or gaseous combustible wastes are ignited and burned efficiently, and from which the solid residues contained little or no combustible material.

(28) INCINERATOR - MULTICHAMBER - Any refuse-burning equipment consisting of two or more combustion chambers in series.

(29) INDIANAPOLIS AREA - The City itself and ten miles from its corporate boundaries in all directions in Marion County.

(30) INDIRECT HEAT EXCHANGER - Any apparatus or device that transfers usable heat through a heat conducting material barrier or by a heat storage medium to a material to be heated so that the material being heated is not contacted by, and adds no substance to, the heat carrying medium.

(31) INTERNAL COMBUSTION ENGINE - Any engine in which the combustion of gaseous, liquid, or pulverized solid fuel take place within one or more chambers.

(32) MIST - A suspension of any finely divided liquid in any gas or atmosphere.

(33) OBJECTIONABLE ODOR - An odor shall be deemed objectionable when at least 50 percent of a random selected group of not less than 20 people, 75 percent of whom reside or work in the area affected and 25 percent from the general public living or working outside the affected area and not associated with the problem, deem the odor to be objectionable.

(34) ODOR - A substance which affects the sense of smell.

(35) OPEN BURNING OR OPEN FIRE - Any burning of combustible materials wherein the products of combustion are emitted directly into the open air without passing through a stack or chimney.

(36) PARTICULATE MATTER - Any material except uncombined water, that exists in a finely divided form as a liquid or solid at standard conditions, or is suspended in or discharged to the atmosphere.

(37) PERSON - Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, or any legal entity, or their legal representatives, agents, or assigns.

(38) PROCESS - Any action, operation, or treatment embracing chemical, industrial or manufacturing facts, such as, but not limited to, heat treating furnaces, by-product coke plants, cupolas, heating and reheating furnaces, electric steel furnaces, ferrous and nonferrous foundries, asphalt concrete mix plants, cement plants, and equipment used in connection therewith, and all other methods or forms of manufacturing or processing that emit smoke, particulate matter or gaseous matter in excess of the minimum quantities established by this ordinance or the rules and regulations issued pursuant to this ordinance.

(39) PROCESS WEIGHT - The total weight of all materials introduced into any source of operation. Solid fuels charged will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not.

(40) PROCESS WEIGHT RATE -

(a) For continuous or long run steady-rate source operation, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof.

(b) For a cyclical, or batch source operations, the total process weight for a period that covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such a period.

(c) Where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply.

(41) REFUSE - Includes garbage, rubbish, trade waste, and trash.

(42) REFUSE-BURNING EQUIPMENT - Any equipment, device, or contrivance used for the destruction of refuse and other waste by burning and all appurtenances thereto.

(43) RINGELMANN CHART - The chart published and described in the U.S. Bureau of Mines Information Circular 8333 which shall include later current circulars and charts, and which are illustrated graduated shades of gray to black for use in estimating the light obscuring powers of smoke.

(44) RINGELMANN NUMBER - The number appearing on the Ringelmann chart describing the density of smoke emission. Where the density of smoke as observed falls between two consecutive Ringelmann numbers, the low Ringelmann number shall be considered the density of the smoke observed.

(45) SMOKE - Small gas-borne particles resulting from incomplete combustion, consisting predominately, but not exclusively, of carbon, ash, and other combustible material, that form a visible plume in the air.

(46) SMOKE MONITOR - Device using light source and a light detector which can automatically measure and record the light obscuring power of smoke at a specific location in the flue or stack of a source. Measuring and recording to be at intervals of not less than 15 seconds.

(47) SOURCE OPERATION - The last operation preceding the emission of an air contaminant, which operation: (a) results in the separation of the air contaminant from the process materials or in the conversion of the process materials into air contaminants, as in the case of combustion of fuel, and (b) is not an air pollutant abatement operation.

(48) STANDARD CONDITIONS - A gas temperature of 70° Fahrenheit and a gas pressure of 14.7 pounds per square inch absolute (psia).

(49) STANDARD CUBIC FOOT(SCF) - The standard cubic foot is a measure of a volume of gas under standard conditions.

(50) SUPERINTENDENT - Superintendent of Air Pollution Control.

(51) TRADE WASTES - All solids, liquids or vapors resulting from construction, land clearing of plant life other than annual crops grown on the premises in the course of agricultural operations, building operations, or the prosecution of any business, trade, or industry, including, but not by way of limitation, plastic or rubber products, chemicals, cinders, fly ash, trees, brush, and other forms of solid or liquid waste material.

(2.0) ARTICLE 2 - ADMINISTRATION BY BUREAU

Section 2.1. AREA COVERED. The City of Indianapolis and that area within Marion County ten miles from the corporate boundaries of the City shall constitute the jurisdictional area of this ordinance.

Section 2.2. BUREAU OF AIR POLLUTION CONTROL. The administration and enforcement of the ordinance shall be by a Bureau of Air Pollution Control established within the Executive Department. The Executive Department shall administer this ordinance through the Bureau of Air Pollution Control. The Bureau shall be headed by a Director and there shall also be provided a Board of Air Pollution Control, all to be appointed by and serve at the pleasure of the Mayor. The Director, before being appointed by the Mayor, must be recommended by the Board.

Section 2.3. DIRECTOR, BUREAU OF AIR POLLUTION CONTROL. The Director shall be appointed by the Mayor upon recommendation of the Board and serve at the pleasure of the Mayor as the full-time administrative head of the Bureau of Air Pollution.

Section 2.4. QUALIFICATIONS OF THE DIRECTOR. The Director shall be either a graduate engineer, a graduate industrial hygienist or a doctor of medicine, having experience in air pollution control or air pollution abatement, and having proven executive administrative, and personnel relations experience.

GENERAL DUTIES OF THE DIRECTOR

The Director shall:

(a) Direct and administer the activities of the Bureau staff;

(b) Make rules and regulations pertaining to the administration of the Bureau of Air Pollution Control subject to the approval of the Air Pollution Control Board;

(c) Recommend to the Air Pollution Control Board proposals for additions or revisions to the Regulations or Ordinance;

(d) Receive and institute complaints;

(e) Prepare the Annual Budget subject to the approval of the Air Pollution Control Board;

(f) Institute enforcement actions necessary to insure compliance with the prevention and abatement sections as may be provided for in the ordinance;

(g) Be responsible for the preparation and execution of public relations plans and educational plans for securing the co-operation of the public in the reduction of air pollution;

(h) Co-operate with Federal, State, County and other agencies concerned with air pollution with regard to studies, abatement programs, public complaints and like matters.

(i) Serve as Secretary to the Air Pollution Control Board without vote or membership.

Section 2.5. INDIANAPOLIS AIR POLLUTION CONTROL BOARD. A Board shall be appointed by the Mayor and serve at the pleasure of the Mayor.

MEMBERSHIP - The membership of the Board shall be made up of:

(a) A registered professional engineer in the State of Indiana, having experience in the field of air pollution.

(b) A licensed physician in the State of Indiana having experience in toxicology.

(c) An attorney, admitted to the Bar in the State of Indiana.

(d) A member experienced in solid waste disposal.

(e) A member experienced in fuel technology and combustion.

(f) A member experienced in process manufacturing.

(g) A member representing industry.

(h) A member representing labor.

(i) A member representing the public at large.

TERM OF APPOINTMENT. The terms of the appointed members shall be four years except that of the initially appointed members, two shall serve for one year; two shall serve for two years; two shall serve for three years; and three shall serve for four years. Whenever a vacancy occurs, the Mayor shall appoint a member for the remaining portion of the unexpired term created by the vacancy.

POWERS AND DUTIES OF THE BOARD

The Board shall:

(a) After thorough study and investigation, prepare and develop a comprehensive, effective, and continuing program for the prevention, abatement and control of air contaminants within the area, by:

  (1) Setting air quality objectives.

(2) Determining need for specific controls to achieve and maintain the air quality objectives.

(3) Making and amending rules and regulations and setting standards based on the need, technical feasibility, and economic practicability.

(b) Secure necessary scientific, technical, administrative, and operational assistance by contract or otherwise;

(c) Institute investigations, consider complaints, listen to and decide on appeals, grant or deny variances, hold hearings, issue orders, and authorize and direct appropriate enforcement action, permitted by law and deemed necessary, to achieve compliance with the rules and regulations pursuant to the ordinance, taking into consideration:

(1) The character and degree of injury or interference with comfort, safety, health, or the reasonable use or enjoyment of the property;

(2) The social and economic value of the activity causing the emissions, and

(3) The practicability, both scientific and economic, of reducing or eliminating the emissions resulting from such activity.

(d) Adopt, amend and repeal as necessary standards, rules and regulations under this ordinance which shall be incorporated hereunder and made a part hereof and violations of which shall be violations of this ordinance.

(e) Maintain a register of violators.

(f) List variances and compliance deadline.

(g) Exclude small sources of air contamination by establishing practical minimum quantities of each air contaminant below which neither control nor registration of the source of emission will be required.

CHAIRMAN. The Chairman and Vice Chairman of the Board shall be elected by the Board members, and be members of the Board, and shall serve for one year.

COMPENSATION. The members of the Board shall serve without compensation.

VOTING. A quorum shall consist of five members. A majority of the entire board shall decide all votes on rules and regulations or changes thereto. All other votes shall be decided by a majority vote of those present.

FREQUENCY OF MEETINGS. The Board shall meet at least once each month, and more often if deemed necessary by the Chairman, or two (2) members of the Board. All members must be notified of all meetings.

Section 2.6. SUPERINTENDENT OF AIR POLLUTION CONTROL. The Superintendent of Air Pollution Control shall be appointed by the Director of the Air Pollution Bureau with the approval of the Air Pollution Control Board.

A. QUALIFICATIONS OF THE SUPERINTENDENT. The Superintendent shall be qualified by technical training; and shall have at least six year's total experience in the theory and practice of construction and/or operation of combustion devices, in the theory and practice of air pollution control equipment, or in the practice of air pollution abatement.

GENERAL DUTIES OF THE SUPERINTENDENT

The Superintendent shall:

(1) Report to and be responsible to the Director.

(2) Advise the Director of violations.

(3) Issue permits, certificates, and notices as may be provided for in the ordinance.

(4) Administer and supervise the activities of the technical branch as follows:

  (a) Establish and supervise the maintenance of an effective air sampling network and associated laboratory facilities so as to keep the Air Pollution Control Board and other interested agencies advised of:

    (1) General ambient air conditions.

    (2) Adverse localized conditions.

    (3) Need for adjustment in emission control standards.

  (b) Make inspections and tests of existing and newly installed air pollution abatement devices.

  (c) Investigate complaints.

Section 2.7. CHIEF CHEMIST - The Chief Chemist shall be employed by the Superintendent of Air Pollution Control with the approval of the Director of the Air Pollution Bureau.

A. QUALIFICATIONS OF THE CHIEF CHEMIST - He shall be a graduate chemist with experience in air quality determination.

GENERAL DUTIES OF THE CHIEF CHEMIST

(a) He shall report directly to the Superintendent.

(b) He shall be responsible for all chemical determinations on air quality.

(c) He shall be responsible for all air quality sampling and testing equipment, and the maintenance of same.

Section 2.8. CHIEF INSPECTOR - The Chief Inspector shall be appointed by the Superintendent with the approval of the Director of the Air Pollution Bureau and shall report to the Superintendent.

A. QUALIFICATIONS OF THE CHIEF INSPECTOR. He shall be qualified by technical training; and shall have at least four year's total experience in the theory and practice of construction and operation of combustion devices, in the theory and practice of air pollution control equipment, or in the practice of air pollution abatement.

Section 2.9. ADMINISTRATIVE ASSISTANT - The Administrative Assistant shall be appointed by the Director of the Air Pollution Bureau.

A. QUALIFICATIONS OF THE ADMINISTRATIVE ASSISTANT. He shall be knowledgeable in administrative and secretarial procedures.

Section 2.10. PLANS AND SPECIFICATION TECHNICIAN - Plans and Sepcification Technician(s) shall be appointed by the Superintendent of Air Pollution Control with the approval of the Director of the Air Pollution Department.

A. QUALIFICATIONS OF THE PLANS AND SPECIFICATIONS TECHNICIAN. He shall be qualified by technical training or shall be experienced with combustion devices, air pollution control equipment, and plans and specifications study.

Section 2.11. TECHNICAL ASSISTANT TO CHIEF CHEMIST - Technical Assistant(s) to the Chief Chemist shall be appointed by the Superintendent of Air Pollution Control with the approval of the Director of the Air Pollution Bureau.

A. QUALIFICATIONS OF THE TECHNICAL ASSISTANT TO THE CHIEF CHEMIST. He shall be qualified by technical training or shall be experienced with air quality testing and air quality sampling equipment.

Section 2.12. INSTRUMENT REPAIR TECHNICIAN - Instrument Repair Technician(s) shall be appointed by the Superintendent of Air Pollution with the approval of the Director of the Air Pollution Bureau.

A. QUALIFICATIONS OF THE INSTRUMENT REPAIR TECHNICIAN. He shall be qualified by technical training or experience with air quality sampling or similar equipment maintenance and repair.

Section 2.13. AIR POLLUTION INSPECTORS - The Air Pollution Inspectors shall be appointed by the Superintendent of Air Pollution Control with the approval of the Director of the Air Pollution Bureau.

A. QUALIFICATIONS OF THE AIR POLLUTION INSPECTORS. The Inspectors shall be qualified by technical training or shall be experienced with combustion devices, air pollution control equipment, air pollution abatement enforcement.

(2.0)
(5.0)
(15.0)

ARTICLE 3 - PROMULGATION OF RULES AND REGULATIONS, RIGHT OF APPEAL, VARIANCES, AND ENFORCEMENT

(2.0) Section 3.1. RULES AND REGULATIONS - Before any rule or regulation or standard is adopted by the Board, as prescribed per Article 2.5 Powers and Duties of the Board, they shall cause a notice to be published in a newspaper of general circulation printed and published in Marion County, Indiana, at least ten (10) days prior to the date set for a hearing. Such notice shall include a statement of the time and place of said hearing, a reference to the subject matter of the proposed rule(s) or regulation(s) and reference to the fact that a copy of such proposed rule(s) or regulation(s) is on file at the office of the Bureau of Air Pollution Control where it may be examined, provided, however, that no rule(s) or regulation(s) shall be invalid because the reference to the subject matter thereof in said notice may be inadequate or insufficient. At least five (5) copies of said proposed rule(s) or regulation(s) shall be on file in the office of the Bureau of Air Pollution Control from the date of publication of said notice continuously to the time of such hearing, and any interested persons shall be given an adequate opportunity to examine a copy of said proposed rule(s) or regulation(s).

On the date set for hearing any interested party shall be afforded an adequate opportunity to participate in the formulation of the proposed rule(s) or regulation(s) through the presentation of facts or argument or the submission of written data or facts. All relevant matters presented shall be given full consideration by the Board.

In case the Board desires to repeal, rescind or amend any rule(s) or regulation(s) the same procedures shall be followed as is provided in the preceding paragraph for the adoption of rule(s) or regulation(s).

(16.0) Section 3.2. HEARINGS. All hearings conducted by the Air Pollution Control Board shall be open to the public. Any person may appear and testify at a hearing, either in person or by a duly authorized representative or attorney.

The Air Pollution Control Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if he is absent or failing to vote, indicating such fact and shall also keep records of its hearings and other official actions.

At the conclusion of such public hearing the Board may adopt such rules and regulations or may provide for continuation of such hearing as the Board may deem appropriate, which further hearing may be held without requirement of publication of notice. There shall be published a notice once each week for two (2) consecutive weeks after each Board meeting at which rules or regulations were adopted that the Bureau of Air Pollution Control has adopted certain rules and regulations, giving the number of the same and the general title thereof and stating that copies thereof are available for examination in the office of the Bureau of Air Pollution Control and in the office of the City Clerk.

After complying with requirements for publication, such rules and regulations shall become effective as adopted by the Board.

(2.0) Section 3.3. APPEALS. Any person may take an appeal to the Board if:

(1) They are taking exception to and affected by any final decision, ruling, requirement, rule or order of the Director or Superintendent.

(2) They make a request to the Director or Superintendent and he fails to act upon the request within ten (10) days.

Such appeal shall be taken within fifteen (15) days by filing with the Director or the Superintendent a notice of appeal directed to the Board specifying the ground thereof and the relief desired. Such an appeal shall act as a stay of the decision, ruling, requirement, rule or order in question until the Board has taken final action on the appeal. A fee of $25.00 shall be posted by the Appellant at the time of filing of the appeal to cover the costs of the hearing and this shall be refunded only if the appeal is sustained. The Director or Superintendent whose action or failure to act is the subject of the appeal shall forthwith furnish to the Board his information relating to the case. The Board shall not less than ten (10) days after the date of filing of the appeal set a date for the hearing and shall give notice thereof by mail to the interested parties. The Board may at its discretion grant a continuance.

At the hearing any party may appear in person or by agent or attorney and present evidence both written and oral pertinent to the questions and issues involved and may examine and cross-examine witnesses. The Board after the hearing shall examine and affirm, modify or reverse the decision, ruling, requirement, rule, or order of the Director or Superintendent or order him to act. The decision of the Board shall be binding on the Director or Superintendent and Appellant unless reversed by a court of competent jurisdiction.

(5.0) Section 3.4. VARIANCE. In the event that the Board shall find that the compliance by a particular person with the provisions of this ordinance or of rules and regulations adopted by the Board pursuant to this ordinance would result:

(1) in an arbitrary and unreasonable taking of property, or

(2) in a practical closing and elimination of any lawful business, occupation or activity, or

(3) in an undue hardship upon any person

without a sufficient corresponding benefit or advantage to the public in the reduction of air contamination, the Board shall prescribe other and different requirements, not more burdensome than the requirements of this ordinance or of the general rules and regulations adopted pursuant to this ordinance, applicable to plants and equipment operated by such person; provided, however, that no such variance may permit or authorize the maintenance of a nuisance.

Such varinace shall be granted only after a public hearing, notice of which shall be published in the same manner as notice shall be given before promulgation by the Board of any rules or regulations, Section 3.1 of this Article. In addition, the person requesting such variance shall - not less than fifteen (15) days prior to the date of such hearing - either deliver personally or by registered or certified mail to the owner of all real estate located within 600 feet of the plant or equipment for which such variance is sought (as the names of such owners shall appear on the latest bound records of the appropriate township assessors), a notice setting forth the name of the petitioner, the time and place of the hearing and a general description of the plant or equipment for which variance is sought and the nature of the variance sought. Any variance so given shall be subject to such limitations as to time, and to such other conditions or limitations, as the Board may prescribe at the time of giving such variance. Any variance so given may be revoked or modified by the Board by written order, after a public hearing, notice of which shall be published in the same manner as notice shall be given before promulgation by the Board of any rules or regulations, held not more than ten (10) days after written notice of said hearing and its purpose shall have been served on the person or persons who will be subjected to greater restrictions if such order is revoked or modified as proposed, and upon all other persons who appear before the Board at the time of granting of such variance or who have filed with the Board a written request for such notification.

(15.0) Section 3.5. ENFORCEMENT PROCEDURES. The Director and the Superintendent of the Bureau shall be in charge of the enforcement of this ordinance and the enforcement of the rules and regulations adopted thereunder. Where a violation occurs the Director or Superintendent shall cite in writing any violator of this ordinance or any rules or regulations adopted thereunder, including the time allowed for compliance:

> The Bureau may take such appropriate action as it deems necessary to remedy any air pollution caused by the person, firm or corporation cited for a violation including the extension of time in which to correct defects and a direct order to comply with the ordinance or the rules and regulations adopted thereunder.
>
> Upon failure to achieve final compliance within the time stipulated the Director may forward a notice of violation to the City Prosecutor (with a copy to the violator) who shall file a complaint ordinance violation against such person, firm, corporation or organization not in compliance. The City Prosecutor shall thereupon prosecute such case in the Municipal Court of Marion County.
>
> The Director may instead direct the Department of Law of the City of Indianapolis to enjoin any nuisance or any health hazard or other air pollution condition by appropriate action to enjoin or restrain the same in the civil courts as the City may be authorized to accomplish the abatement of nuisances under existing law.

(15.0) Section 3.6. OBSTRUCTION OF ENFORCEMENT. Any person who shall fail to submit plans, or reports, or refuse to comply with, or who shall assist in the violation of any of the provisions of this article, or who, in any manner, hinders, obstructs, delays, resists, prevents or in any way interferes or attempts to interfere with the Superintendent of Air Pollution, or Air Pollution Control Inspectors, or police officers, in the performance of any duty herein prescribed, or shall refuse to permit such inspectors, or officers, to perform their duty by refusing them, or any of them, entrance at reasonable hours to any premises in which the provisions hereof are being violated, or refuse to permit the inspection, or examination, of such building, establishment, premises, or enclosures, for the purpose of enforcement of this title, shall be subject to the fines and penalties provided in the penalty section of this ordinance.

ARTICLE 4 -

(3.0) Section 4.1. REGISTRATION OF AIR POLLUTION SOURCES. To bring about such compliance in an orderly and systematic manner, the Bureau of Air Pollution Control shall maintain a registration of air pollution sources emitting contaminants in excess of the minimums established by the rules and regulations, and it shall acquire and take over from the prior Air Pollution Control Bureau all existing records in this regard, and shall continue the same, and maintain such register on a current and continuing basis.

(15.0) Section 4.2. SPECIAL POWERS OF BUREAU. The Bureau of Air Pollution Control is hereby authorized to acquire and to use all necessary equipment, devices, methods and systems to measure the quality of the ambient air in the control area, and to keep records, and charts, data and statistics and to conduct tests, make inspections, and do all that is necessary to control the purity of the Indianapolis area atmosphere.

(2.0) ARTICLE 5 - EXISTING EQUIPMENT

(3.0) Section 5.1. CERTIFICATE OF OPERATION. The owner of, or person responsible for maintenance of, any existing process, fuel-burning, refuse-burning, or control equipment which is a source of air contaminants of the type covered by this ordinance and rules and regulations and which emits such contaminants in amounts in excess of the minimums provided in such rules and regulations, shall file with the Bureau a report setting forth, (1) the nature and quantity of the air contaminant produced, and (2) a description of any devices designed to control the emission of such contaminants into the atmosphere. Upon receipt of such report and payment of the required fee, the Superintendent shall, if he is satisfied that such process, fuel-burning, refuse-burning, and control equipment does not allow the emission into the atmosphere of air contaminants in excess of the maximums provided in this ordinance or the rules and regulations issued thereunder issue to such person a certificate of operation for such process, fuel-burning, refuse-burning, and control equipment. Such certificate of operation may be renewed on the third anniversary and every three (3) years thereafter, so long as such equipment remains in satisfactory operation. Invoice for renewal of certificate of operation shall be submitted to the owner of record by the Bureau. If the Director shall find that such process, fuel-burning, refuse-burning, or control equipment results in the emission into the atmosphere of air contaminants in excess of the maximum amounts provided in this ordinance and the rules and regulations issued thereunder, then the Director shall order the applicant to submit a program for bringing such process, fuel-burning, refuse-burning, or control equipment in compliance with this ordinance in accordance with Section 5.2.

(6.0) Section 5.2. PROGRAM FOR COMPLIANCE. Where emission sources in existence prior to adoption of the ordinance do not meet the emission limitations set in the Rules and Regulations then a program to meet the requirements stipulated in the Rules and Regulations shall be developed and offered to the Director by the owner of the equipment causing the emission. In evaluating such program, the owner and Director shall take into consideration the following factors:

(1) Action taken to control atmospheric pollution within emission limitations in effect prior to his regulation.

(2) Efficiency of any existing control equipment relative to that which would be required to meet emission limitations of this regulation.

(3) Temporary interim control measures intended to minimize existing pollution levels.

(4) The effect the source of emission has on air pollution generally or in the immediate vicinity of the source.

(5) The degree of control in relation to other similar facilities which produce air pollution.

(6) The age and prospective life of the facility in question.

This program shall be submitted upon the order of the Director within such time limit as shall be reasonably determined, but not more than ninety (90) days after such order. Such program shall include an estimate of time required to be completed, which shall not exceed three (3) years after the date of approval of the program by the Director. After said program has been approved by the Director, the owner of the equipment causing the emission shall not be in violation of this ordinance so long as said program is observed and reports indicating the progress of said program submitted semi-annually to the Director by the owner of the equipment causing the emission in question. If progress of the program is not maintained in accordance with provisions of the program, the Director may suspend the program and issue a violation notice. In event the owner of the equipment causing the emission and the Director cannot evolve a mutually acceptable program, or if the program cannot be completed within three (3) years after approval by the Director, the matter shall be referred to the Board for resolution and determination, after a hearing at which the Director and the owner of the equipment causing the emission shall have an opportunity to present facts and arguments, of an acceptable program, which shall be binding upon both the owners and the Director. In making their determination, the Board shall also take into consideration the factors noted in paragraph (1) through (6) of this section. When the program has resulted in the equipment complying with the ordinance and rules and regulations, the Director shall issue a certificate of operation which shall be renewed as provided in Section 5.1.

(2.0) ARTICLE 6 - NEW EQUIPMENT AND ALTERATION OF EXISTING EQUIPMENT

(3.0) Section 6.1. INSTALLATION PERMIT. No person shall construct or install any process, fuel-burning, refuse-burning, or control equipment pertaining thereto, which will be a source of air contaminant of this type covered by, and in excess of the minimum set forth in, this ordinance and the rules and regulations thereunder, or reconstruct or alter any such process, fuel-burning, refuse-burning, or control equipment in such way as to change the nature, or increase the amount, of any such air contaminant produced thereby, or to effect any change in the equipment designed to control such air contaminant, until an application in duplicate shall be filed with the Bureau setting forth (1) the nature and quantity of the air contaminant product, (2) and two sets of properly prepared plans and specifications of the air contaminant control equipment used in connection therewith, and other such data as the Superintendent may reasonably require to evaluate the amount of such contaminants which may enter the atmosphere.

An application shall be acted on within thirty (30) calendar days after it is filed in the office of the Bureau. The Superintendent shall notify the person applying for the permit of approval or reasons for rejection of the application in writing.

Upon approval of the application and upon the payment of the prescribed fees, the Superintendent shall issue a permit for the construction, installation, reconstruction, or alteration of such process, fuel-burning, refuse-burning, or control equipment.

In lieu of such application, such persons may, at their option, file with the Bureau an application containing (1) a certificate stating the nature and quantity of such air contaminant that such process, fuel-burning, or refuse-burning, may emit and (2) stating that the control equipment proposed, if any, complies with each and all of the applicable provisions and limitations of this ordinance. The Superintendent shall act upon such application within ten (10) days after receipt of such application.

Upon approval of the application and upon the payment of the prescribed fees, the Superintendent shall issue a permit for the construction, installation, reconstruction, or alteration equipment.

No construction, installation, reconstruction, or alteration shall be made which is not in accordance with the plans, specifications, and other pertinent information upon which the installation permit was issued without the written approval of the Superintendent.

Violation of the installation permit shall be sufficient cause for the Director to stop all work, in connection with said permit and he is hereby authorized to seal the installation. No further work shall be done until the Director is assured that the condition in question will be corrected and that the work will proceed in accordance with the installation permit.

If construction, installation, reconstruction, or alteration is not started within one (1) year of the date of the installation permit, the permit will become void and all fees shall be forfeited, unless an extension of time is warranted and granted by the Director.

(3.0) Section 6.2. CERTIFICATE OF OPERATION. The person responsible for the installation, construction, or alteration of any process, fuel-burning, refuse-burning, or control equipment for which an installation permit is required, shall notify the Bureau when the work is completed and ready for final inspection. Pending such inspection, the process or equipment may be operated for the purpose and in the manner for which the installation permit was approved. Emission tests at the expense of the applicant may be required by the Superintendent before the issuing of an initial certificate of operation. After it is demonstrated to the satisfaction of the Superintendent that the process, fuel-burning, refuse-burning, or control equipment is being operated in compliance with this ordinance, a certificate of operation shall be issued by the Superintendent. Such certificate of operation shall be renewed every three (3) years so long as such equipment remains in satisfactory operation as provided in SECTION 5.1. Said certificate of operation shall be kept posted on or near the installation for which it was issued. The certificate of operation shall properly identify the equipment to which it pertains and shall specify the class of fuel, type of refuse, type of raw materials used, if any, which have been successfully used in the operating test.

Failure to operate successfully under test within the limitations and requirements of this ordinance shall constitute sufficient grounds for ordering changes in the process, fuel-burning, refuse-burning, or control equipment or appurtenances before initial certificate of operation can be granted. When the Superintendent refuses to issue a certificate of operation, the Director is authorized to seal the process, fuel-burning, refuse-burning, or control equipment until the person required to procure the certificate of operation shall have complied with the provisions of this ordinance.

The Director is hereby authorized to seal any equipment for which a certificate of operation was originally issued and has not been renewed. Installation permits and certificates of operation shall not be transferable.

(14.0) Section 6.3. CONFIDENTIALITY OF DATA OR INFORMATION. Data or information relating to processes or production unique to one person or disclosure of such information which if made public would tend to adversely affect the competitive position of that person will not be required to obtain an installation permit or certificate of operation under any section of this ordinance. Nothing in this section shall be construed as a permit to violate any of the air quality objectives, standards, or rules and regulations of the Bureau.

(2.0) ARTICLE 7 - FEES

Fees for the inspection of plans and issuing installation permits, for the installation, erection, and construction, reconstruction, alteration of, or addition to, fuel-burning, combustion or process equipment or devices, and installation of apparatus or devices for the prevention or arresting of the discharge smoke, particulate, liquid, gaseous, or other air contaminant matter shall be as follows:

Section 7.1. PERMITS.

Fuel-Burning Equipment, used for space heating, steam and hot water or power generation for each unit:

Of a capacity of 650,000 BTU/Hr and less than 2,880,000 BTU/Hr............... $15.00

Of a capacity of 2,880,000 BTU/Hr or more................................ $25.00

Refuse-burning equipment, for each unit:

With less than fifteen square feet of grate area.............................. $10.00

With fifteen or more square feet of grate area.............................. $15.00

Process Equipment:

Per each installation permit

Installation cost less than $100,000..... $15.00

Installation cost more than $100,000..... $25.00

Permit to sell or rent domestic incinerators............................ $10.00

Section 7.2. CERTIFICATE OF OPERATION FEES. Fees shall be as follows for the issuance or renewal of certificates of operation which may require inspection of fuel-burning, combustion or process equipment or devices:

Fuel-burning equipment used for space heating, steam and hot water or power generation, for each unit:	
Of a capacity of 650,000 BTU/Hr and less than 2,880,000 BTU/Hr	$15.00
Of a capacity of 2,880,000 BTU/Hr or more	$25.00
Refuse-burning equipment, for each unit:	
With less than fifteen square feet of grate area	$ 5.00
With fifteen square feet or more of grate area	$10.00
Sand or Grit Blasting Contractors:	
Up to three guns	$15.00
More than three guns	$25.00
Individual employees not licensed.	
Process equipment:	
Per chimney or stack emitting air contamination in excess of the minimums but below the maximums established by the rules and regulations	$ 5.00

Section 7.3. PAYMENT OF FEES. All fees or penalties prescribed for the issuance of permits, licenses, or certificates, or for the inspection of plans, premises, or equipment, under any provision of this ordinance shall be paid to the City Controller, who shall render to the person making such payment a receipt stating the amount and purpose for which such fee or penalty has been paid, a duplicate of which shall be made part of the records of the Department. All fees and penalties thus received shall be deposited with the City Controller.

Section 7.4. FEES ARE DEBT DUE THE CITY - SUIT FOR. All fees or penalties prescribed for, the payment of which is required under any provision of this ordinance shall constitute a debt due the City. The Corporation Counsel shall, at the direction of the Director, institute civil suit in the name of the City to recover the amount of any such unpaid fee or penalty. No civil judgment, or any act by the Corporation Counsel, the Director, or the violator, shall bar or prevent a criminal prosecution for each and every violation of this ordinance.

(8.0) ARTICLE 8 - EMERGENCY PROCEDURE

Section 8.1. EMERGENCY PROCEDURE. Any other provision of this ordinance to the contrary notwithstanding, if the Director finds that emissions from the operation of one or more air contaminant sources is causing imminent danger to human health or safety, he may order the person or persons responsible for the operation or operations in question to reduce or discontinue emissions immediately and such an order shall fix a place and time not later than twenty-four (24) hours thereafter for a hearing to be held before the Board. Not more than twenty-four (24) hours after the commencement of such a hearing, and without adjournment thereof, the Board shall affirm, modify or set aside the order of the Director.

Section 8.2. OTHER EMERGENCY ACTIONS. Nothing in this article shall be construed to limit any power which the Mayor or any other officer may have to declare an emergency and act on the basis of such declaration if such power is conferred by statute or constitutional provision, or inheres in the office.

(2.0) ARTICLE 9 - RULES-REGULATIONS & STANDARDS

(2.0) Section 9.1. PART OF ORDINANCE - VIOLATIONS - MAKING OF RULES, REGULATIONS AND STANDARDS SET BY THE BOARD. The Prevention of atmospheric pollution in the Indianapolis area, an industrial metropolitan complex, must be accomplished by adherence to atmospheric purity standards, which in a large measure must be done through engineering and scientific means, through measurement and control devices superimposed on chemical, manufacturing and combustion processes. Since air pollution abatement, control, and prevention is a special technical field, this council expressly delegates to the Bureau of Air Pollution Control, its personnel and such professional consultants as it may retain, the duty of determining such standards and the adoption of preventative measures, devices and processes which prevent the escape of pollutants into the atmosphere. The Board of Air Pollution Control of said Bureau is expressly and specifically empowered and the power of this Council is directly delegated to said Board to set air quality objectives, determine need for specific controls to maintain air purity, and to make and amend rules and regulations and set standards to control air contamination within the area. Such standards, rules and regulations when adopted as provided in this ordinance shall become a part of this ordinance and by this delegated power expressly incorporated herein, and all future regulations made in compliance herewith, upon their adoption shall become a part hereof.

(2.0) Section 9.2. ORIGINAL STANDARDS, RULES AND REGULATIONS ADOPTED WITH THE ORDINANCE. Realizing the need for immediate enactment of rules and regulations to abate air pollution, Rules and Regulations Number I, II, III, and IV are hereby adopted in connection with this ordinance.

REGULATION I	Smoke
REGULATION II	Particulate Emission
REGULATION III	Open Burning Restrictions
REGULATION IV	Odors, Gases, and Aeromatics

Said rules and regulations and the standards set up therein are herein incorporated into and made a part of this Article and ordinance section as Rules, Regulations, and Standards which may, by the Board of Air Pollution Control be repealed, altered, amended, changed, modified or continued in full force and effect without further action of this common council and as part of the standard setting, Rules and Regulations making delegated to said Board by the Common Council.

Said Board is further delegated the power to adopt further standards, rules and regulations as scientific developments unfold, and as the atmospheric purity of the Indianapolis area may require. Such standards, rules and regulations when adopted as provided herein, with such original rules-regulations as guides shall become, by reference, a part of this ordinance and violators of such rules and regulations and prescribed standards shall be subject to all the penalties of this ordinance.

(50.1.2) REGULATION I, SMOKE

It shall be unlawful for any person owning or in charge of any fuel-burning, refuse-burning, combustion process equipment or device, or open fire, to cause, suffer or allow the emission or discharge of smoke from any single such source into the atmosphere except in conformity with the limits set forth as follows:

I - 1, Smoke Density

The Ringelmann Chart shall be used for grading the light obscuring power of smoke. It shall not be used for determining metallurgical fume emissions or measuring the opacity of non-combustion process emission or the measurement of particulate emission from any fuel combustion equipment. Two copies of the Bureau of Mines, Information Circular 8333 "Ringelmann Smoke Chart" shall be filed with the City Clerk.

The production or emission of dense smoke is prohibited. No person shall cause, suffer or allow to be emitted into the open air from any fuel-burning equipment, internal combustion engine, premise, open fire, or stack, smoke the appearance, density, or shade of which is No. 2 or darker of the Ringelmann Chart except as provided below.

The Director of Air Pollution Control may require any person whom he believes to be in violation of this Section to provide a smoke monitor which shall be installed in such a manner that it continuously monitors the density of smoke emission from the stack in question. Measurements of the smoke monitor shall be automatically transmitted to a recording device capable of maintaining a record of the data which can be made available to the Director of Air Pollution Control upon request.

When cleaning a fire or blowing tubes, smoke which is not darker than a No. 3 Ringelmann Chart may be emitted for a period or periods not exceeding five minutes in any 60-minute period, such emissions shall not be permitted on more than six occasions during any 24-hour period. When building a new fire, smoke not darker than a No. 3 Ringelmann Chart may be emitted not to exceed ten minutes on one occasion per day. The Bureau, at its discretion, may accept an extension of the time period and number of such time periods per day.

I - 2, Exceptions Due to Maintenance or Breakdowns

The following exceptions to the provisions of this Section shall be permitted:

1. When cleaning air pollution control equipment for any process. Under this condition, smoke may be emitted of an appearance, density or shade No. 2 of the Ringelmann Chart or darker for a period or periods aggregating not more than six (6) minutes in any observed sixty (60) minute period.

2. If an operational breakdown of air pollution control equipment occurs, the Superintendent of the Bureau must be notified immediately. The Superintendent shall have discretion to allow a reasonable period of time for repairs.

(50.1) REGULATION II, PARTICULATE EMISSION

It shall be unlawful for any person owning or in charge of any fuel-burning, refuse-burning, combustion or process equipment or device, or open fire, to cause, suffer or allow the emission of particulate matter into the atmosphere except in conformity with the limits set forth as follows:

II - 1, PARTICULATE EMISSION FROM INDIRECT HEAT EXCHANGERS

The emission standards set forth shall be applicable to all existing and new equipment capable of emitting particulate matter to the atmosphere. These standards should be understood to be operating or performance standards, not design standards, and shall be subject to an exceptions clause for existing equipment.

Limitations for Combustion for Indirect Heating

Emissions of particulate matter from the combustion of fuel for indirect heating shall be limited by the ASME Standard No. APS-1, Second Edition "Recommended Guide for the Control of Dust Emission - Combustion for Indirect Heat Exchangers." Figure 2 of this standard shall apply,* however; irrespective of stack height the maximum allowable emission shall be 0.8 pounds of particulates per million BTU input for existing equipment and 0.6 pounds of particulates per million BTU input for new equipment.

Exceptions

The provisions of the Standards for Particulate Emission for Indirect Heat Exchangers, Section II-1, shall not apply to fuel-burning equipment utilized with any structure designed and used exclusively as a dwelling for not more than three families.

*Excerpts of the ASME Standard, APS-1, Second Edition, to be used are included herein. This ASME Standard and any appendices to this Standard shall be used as references. Two copies of APS-1, Second Edition, shall be on file with the City Clerk.

NOTE: When calculating allowable dust emission for a stack height not on Fig. 2, equation (15) should be used to determine it with Co_{max}2 -50. For values of "a" in equation (15), see Table I.

When calculating allowable dust emission for a plant with several stacks of unequal height, use a weighted average stack height calculated as follows:

1. Heat input times stack height for each unit.
2. Add these products together.
3. Divide by total heat input for plant.

When calculating allowable dust emission for a plant with several stacks of equal height use the given stack height.

The average height calculated in the above manner or the given stack height is used in formula (15) or in Fig. 2 to determine D, allowable dust emission, assuming a single stack for the plant. This value is then divided by the appropriate factor from Table II according to the number of stacks at the plant to determine the allowable dust emission from a multiple stack plant.

TABLE I

Correction factor "a" for plume rise with heat inputs of less than 4000 x 10^6 BTU/Hr to be used in equation (15).

Total Heat Input (BTU/Hr)	Plume Rise Formula
Equal to or more than 4000 x 10^6	Lucas with 12% of total heat input up chimney. a = 1.0
Less than 4000 x 10^6	Specified fraction of Lucas with 12% of total heat input up chimney, as follows: 1. 67% of Lucas for stack heights 150 ft. and less. a = 0.67 2. 80% of Lucas for stack heights 225 ft. and more. a = 0.80

TABLE II

For the same maximum suspended dust concentration given in Fig. 2. D (dust emission) in those figures must be reduced to take into account use of more than a single stack. Therefore, D (dust emission) in those figures for a given stack height and total plant heat input must be divided by $n^{0.25}$. Values of $n^{0.25}$ are tabulated below

Number of Stacks (n)	$n^{0.25}$
1	1.0
2	1.19
3	1.32
4	1.41
5	1.50

COMBUSTION FOR INDIRECT HEAT EXCHANGERS

NOMENCLATURE

a = fraction to make allowance for less than theoretical plume rise, dimensionless (a = 0.67, for example, for 67 percent of theoretical rise)

A = constant in Lucas' plume rise equation, dimensionless

Co = ground-level concentration, weight/unit volume

Co_{max} = maximum ground-level concentration with respect to distance, weight/unit volume

$Co_{max}{}^2$ = maximum ground-level concentration with respect to distance and at the "critical" wind speed, weight unit volume

D = dust emission, lb. dust/million BTU input

e = base (2.718) of natural system of logarithms

h_s = stack height, ft.

H_e = "effective" stack height, ft. ($H_e = h_e + h$)

h = plume rise, ft.

n = number of stacks

p = vertical diffusion coefficient, dimensionless

q = horizontal diffusion coefficient, dimensionless

Q = dust emission rate, lb/sec

Q_H = total equipment capacity rating, heat input, BTU/Hr.

Q_{mw} = heat emission from stack, megawatts

u = wind speed, fps

u_c = "critical" wind speed fps

x = downwind distance, ft.

∂ = symbol for partial differential

1. Bosanquet-Pearson (1) Dispersion Equation

Beneath the axis of a plume

$$CO = \frac{Qe^{-H_e/px}}{\sqrt{2\pi}\, pqux^2} \tag{1}$$

By maximizing (1) with respect to downwind distance, x

$$Co_{max} = \frac{0.215\ Qp/q}{u\, H_e^2} \tag{2}$$

Lucas' (6) plume rise formula is

$$h = \frac{AaQ_{mw}0.25}{u} \tag{3}$$

Q_{mw} is the heat emission up the stack in megawatts (one megawatt = 3.42×10^6 BTU/Hr). a is a factor, less than unity, to compensate for plume rise less than theoretical.

A is a constant, thought by Lucas and his co-workers to be about 5000, for a neutral atmosphere. Therefore, with .1 = 5000, Q_H (heat input) in BTU/Hr, and assuming 8 percent of this heat input goes up the chimney as sensible heat.

$$h = \frac{61.9aQ_H0.25}{u} \tag{4}$$

Co_{max} is greatest in relation to wind speed when $\frac{\partial Co_{max}}{\partial u} = 0$. Therefore,

$$u_c = -\frac{H_e}{2\frac{\partial H_e}{\partial u}} \tag{5}$$

$$H_e = h_s + Ah \tag{6}$$

For a given stack height

$$\frac{\partial H_e}{\partial u} = \frac{\partial(\ h)}{\partial u} = -\frac{61.9aQ}{u^2}\overline{\ 0.25\ } \tag{7}$$

Thus,

$$u_c = \frac{61.9aQ_H^{0.25}}{h_s} \tag{8}$$

and, therefore, at u_c

$$\triangle h = h_s \tag{9}$$

$$//_e = 2\ h_s \tag{10}$$

and

$$Co_{max}2 = \frac{0.215\ Q\ p/q}{4 \times 61.9a\ Q_{//}^{0.25} h} \tag{11}$$

Taking p/q = 0.63 for a neutral or unstable atmosphere,

$$Co_{max}2 = \frac{5.47\ Q \times 10^{-4}}{a\ Q_{//}^{0.25}\ h_s} \tag{12}$$

Since,

$$Q = \frac{D\ Q_{//} \times 10^{-6}}{3600} \tag{13}$$

$$Co_{max}2 = \frac{1.52\ D\ O_{//}^{0.75} \times 10^{-13}}{a\ h_s} \tag{14}$$

With the English system of units $Co_{max}2$ comes out in lb/cu ft. Multiply this times 15.9×10^9 to obtain the more conventional units of concentration of suspended dust in micrograms/cu m.

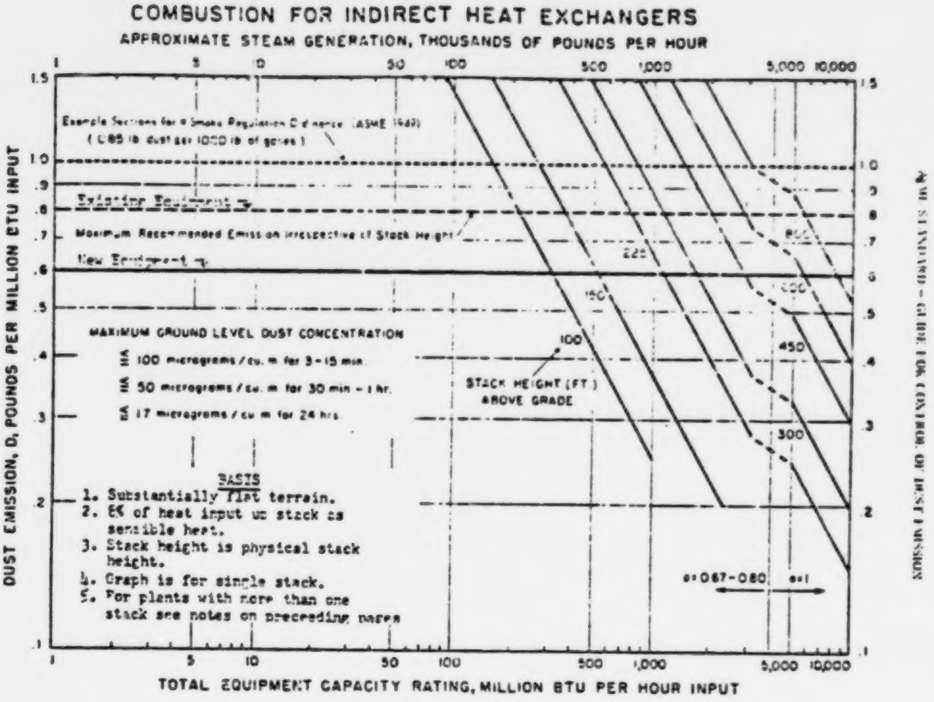
Thus,

$${}^*Co_{max}2 = 2.42\ D\ Q_{//}^{2.75} \times 10^{-3} \text{ micrograms/cu m.} \tag{15}$$

where D, $Q_{//}$ and h_s are in the English system of units as defined in Nomenclature.

Concentration in the Bosanquet-Pearson equation (1) and succeeding ones is for a time duration of about 30 minutes. Concentrations for a shorter duration of 3 to 15 minutes will be approximately twice the concentration for 30 minutes. Figs. 1 and 2 were constructed for maximum suspended dust concentration of about 100 and 50 micrograms/cu m, respectively, for a period of 30 minutes to 1 hour, using equation (15) and the (a) factors of Section 2.1.

$^*Co_{max}2 = 50$ - For Fig. 2



COMBUSTION FOR INDIRECT HEAT EXCHANGERS

FIGURE 2

II - 2, PARTICULATE EMISSION FROM MANUFACTURING PROCESSES

A. General Provisions:

1. This regulation applies to any operation, process, or activity creating visible emission of particulate matter into the atmosphere except particulate emission from indirect heat exchangers, emission of incineration, open burning, and airborne particulates.

2. Wherever practical the system for measuring of these particulate emissions will be in grains per standard cubic foot of exhaust gas. Conversion tables are available for comparison with other standard systems of measurements that may be adopted by the various legislatures and Control Boards. See Appendix II-6-A.

B. Emission Limitations:

1. Except as provided for in Section B (2) no person shall cause, suffer, allow. or permit the emission of particulate matter in any one hour from any source in the excess of the amount shown in table I, page number 301 for the process weight allocated to such source.

2. No person shall cause, suffer, allow or permit the emission of particulate matter from any source in a concentration in excess of 0.40 grains per standard cubic foot of exhaust gases, corrected for 50% excess air at standard conditions. If provisions of this sub-section B (2) would permit a greater emission of particulate matter per hour than allowed by sub-section B (1), the provision of this sub-section B (2) shall not apply, except that the following regulations shall apply to specific processes:

    a. Foundries

    b. Metal Working

    c. Refineries

TABLE I

Process Weight Rate Lbs/Hr	Tons/Hr	Rate of Emission Lbs/Hr	Process Weight Rate Lbs/Hr	Tons/Hr	Rate of Emission Lbs/Hr
100	0.05	0.551	16,000	8.00	16.5
200	0.10	0.877	18,000	9.00	17.9
400	0.20	1.40	20,000	10.00	19.2
600	0.30	1.83	30,000	15.00	25.2
800	0.40	2.22	40,000	20.00	30.5
1,000	0.50	2.58	50,000	25.00	35.4
1,500	0.75	3.38	60,000	30.00	40.0
2,000	1.00	4.10	70,000	35.00	41.3
2,500	1.25	4.76	80,000	40.00	42.5
3,000	1.50	5.38	90,000	45.00	43.6
3,500	1.75	5.96	100,000	50.00	44.6
4,000	2.00	6.52	120,000	60.00	46.3
5,000	2.50	7.58	140,000	70.00	47.8
6,000	3.00	8.56	160,000	80.00	49.0
7,000	3.50	9.49	200,000	100.00	51.2
8,000	4.00	10.40	1,000,000	500.00	69.0
9,000	4.50	11.20	2,000,000	1,000.00	77.6
10,000	5.00	12.00	6,000,000	3,000.00	92.7
12,000	6.00	13.60			

Interpolation of the data in this table for process weight rates up to 60,000 lb/hr shall be accomplished by use of the equation $E = 4.10p^{0.67}$ and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lb/hr shall be accomplished by use of the equation:

$E = 55.0\ p^{0.11} - 40$, where E = rate of emission in lb/hr

and P = process weight rate in tons/hr.

When the process weight exceeds 200 tons/hour the maximum allowable emission may exceed that shown in the table provided the concentration of particulate matter in the discharge gases to the atmosphere show 0.10 pounds of gases at standard conditions.

a. Foundries:

(1) Existing Foundry Cupolas and Open Hearth Furnaces:

All existing foundry cupolas and open hearth furnaces shall be equipped with gas cleaning equipment to reduce particulate matter discharged to the atmosphere in accordance with the following table:

Process Weight Rate Lbs/Hr	Allowable Emission of Particulate Matter Lbs/Hr
1,000	3.05
2,000	4.70
3,000	6.35
4,000	8.00
5,000	9.65
6,000	11.30
7,000	12.90
8,000	14.00
9,000	15.50
10,000	16.65
12,000	18.70

16,000	21.60
18,000	22.80
20,000	24.00
30,000	30.00
40,000	36.00
50,000	42.00
60,000	48.00
70,000	49.00
80,000	50.50
90,000	51.60
100,000	52.60

(2) New Facilities Constructed Subsequent to the Enactment of these Rules and Regulations shall meet the following limitations:

(a) Foundry Cupolas:

Cupolas for continuous ferrous production shall be equipped with gas cleaning devices to reduce the particulate matter in the gas discharged into the atmosphere so as not to exceed 0.20 grains per standard cubic foot. If provision of Section 2a would permit a greater emission of particulate matter per hour than allowed by Table I, the provision of Section 2a does not apply.

(b) Open Hearth Furnaces:

Open hearth furnaces shall be equipped with gas cleaning devices to reduce the particulate matter in the gases discharged to the atmosphere so as not to exceed 0.10 grains per standard cubic foot.

(c) Electric Furnaces:

Electric furnaces shall be equipped with gas cleaning devices to reduce the particulate matter in the gases discharged to the atmosphere so as not to exceed 0.10 grains per standard cubic foot.

b. Metal Working:

Metal working industries should be required to install dust collectors to meet the general requirements of this Regulation

c. Refineries:

Particulate emission from a refinery will be considered satisfactory if the recovery of catalyst loading to the cyclones, cottrell precipitator, or electrostatic precipitator, used in a catalytic cracking unit recovers a minimum of 99% of the loading to the primary collectors.

C. Emission Collectors:

1. All existing dust collectors or systems having an overall efficiency of 99% or better shall be deemed in compliance with this regulation.

2. All new dust collecting systems ordered and installed after the effective date of this regulation, or existing systems that do not comply with (1) above, shall not permit the emission of particulate matter in any one hour, from any source, in excess of the amount shown in table I for the process weight allocated to such source.

D. Additional Process Regulations:

Where it can be demonstrated that a process cannot comply with the process weight table I, within the limits of technological and economic feasibility, the person operating such a process may apply for a specific process regulation based on grain loading per standard cubic foot of exhaust gases. Such values shall in no instance exceed the basic limitation in Section B (2).

II - 3, PARTICULATE EMISSION FROM INCINERATORS

A. General Provisions:

1. This regulation shall apply to any incinerator used to dispose of refuse or other waste by burning and the processing of salvable material by burning. Notwithstanding definitions in other regulations, as used in this regulation the word refuse includes garbage, rubbish, trade wastes, leaves, salvable materials, agricultural wastes, and other wastes. The word incinerator, as used in this regulation, includes incinerators and other devices, structures, or contrivances used to burn refuse (as defined herein) or to process refuse by burning.

2. The burning capacity of an incinerator shall be the manufacturer's or designer's guaranteed maximum rate or such other rate as may be determined by the Board in accordance with good engineering practice. In case of conflict, the findings of the Board shall govern.

3. In calculating the amount of particulate matter in stack gas, the loading shall be adjusted to 50% excess air. Emissions shall be measured when the incinerator is operating at its maximum capacity or at any other burning rate during which emission of particulate matter is greater, when expressed as pounds per 1000 pounds of dry exhaust. See Appendix Section II-6 for Source Emission Measurement.

B. Restriction of Emissions of Particulate Matter from Incinerators

1. No person shall cause or permit the emission of particulate matter from the stack or chimney of any incinerator in excess of the following:

   (a) Incinerators with a maximum refuse-burning capacity of 1000 or more pounds per hour, 0.4 pounds of particulate matter per 1000 pounds of dry exhaust gas corrected to 50% excess air.

   (b) All other incinerators, 0.7 pounds of particulate matter per 1000 pounds of dry exhaust corrected to 50% excess air.

   (c) No incinerator shall emit or produce smoke the appearance, density or shade as prohibited in Regulation I.

2. No incinerator shall be used for the burning of refuse unless such incinerator is a multiple chamber incinerator or equivalent and meets the standards set out in subsection B (1) of this regulation. Existing incinerators which are not multiple chamber incinerators may be altered, modified or rebuilt as may be necessary to meet this requirement. The Director may approve any other alteration or modification to an existing incinerator if such found by him to be equally effective for the purpose of air pollution control as modification or alteration which would result in a multiple chamber incinerator. Existing incinerators which are not multiple chamber incinerators and do not otherwise meet the requirements of Section B (1) of this regulation shall be modified or rebuilt in compliance with this section.

C. New Installations

1. All new incinerator installations shall be multiple chamber or equivalent incinerators and shall meet design standards of the latest edition of Incinerator Institute of America incinerator standards and two copies of the above shall be on file with the City Clerk. These incinerators shall also meet the standards set out in Sub-section B (1) of this regulation.

2. All portable, packaged, completely assembled incinerators sold in the Indianapolis area shall be approved by the Bureau.

D. Exceptions

The standards set out in sub-section B (1) and B (2) shall not apply to any existing incinerators utilized with any structures designed and used exclusively as a dwelling for not more than three families, provided the stack emission from these incinerators do not cause nuisance, detriment, or annoyance to any person or the public.

II - 4, AIR-BORNE PARTICULATE

A. No person shall cause or permit the handling or transporting or storage of any material in a manner which allows or may allow unnecessary amounts of particulate matter to become air-borne.

B. No person shall cause or permit a building or its appurtenances or a road, or a driveway, or an open area to be constructed, used, repaired or demolished without applying all such reasonable measures as may be required to prevent particulate matter from becoming air-borne. The Director may require such reasonable measures as may be necessary to prevent particulate matter from becoming air-borne including but not limited to frequent cleaning of roads, driveways, and parking lots; application of dust-free surfaces; application of water; and the planting and maintenance of vegetative ground cover.

C. It shall be unlawful for any person to permit or cause the emission of such quantities of air contaminants from whatever source in such place or manner as to be detrimental to any person or to the public or to endanger the health, comfort, or safety of any person or the public or in such a manner as to cause injury or damage to property or business.

D. All Sandblaster Companies (or Gritblaster Companies) shall be licensed to operate in Marion County. Each individual or company shall be made aware of their responsibility to the community in respect to controlling their dust nuisance and to observe the following regulations:

1. Only wet sand-blasting - a system utilizing the simultaneous flow of water and grit or sand under pressure - be used in cleaning of buildings of over two storires high in congested areas.

2. Sandblasting or gritblasting of high structures without protective cloths be restricted to days when the wind velocity is under fifteen miles per hour.

3. The premises of the job, and other adjacent areas, be broom-cleaned at the close of each working day.

II - 5, EXCEPTIONS TO PARTICULATE EMISSION STANDARDS

A. Exception When Cleaning Gas Cleaning Equipment

When cleaning gas cleaning equipment which does not require a shutdown of equipment, particulate matter may be emitted in excess of the limitations of II-1, 2 and 3 for a period or periods aggregating not more than six (6) minutes in any observed sixty (60) minute period.

B. Exceptions Due to Breakdown or Scheduled Maintenance

Upset conditions, breakdown or cleaning of gas cleaning equipment or related operating equipment requiring a shutdown of equipment or shutdown of such equipment for scheduled maintenance which causes emissions in excess of the limitations of II-1, 2 and 3 shall not be deemed violations provided the following are complied with:

1. Such condition shall be reported annually to the Superintendent.

2. The person responsible for such emission shall, with all practicable speed, initiate and complete appropriate reasonable action to correct the conditions causing such emissions to exceed said limits; to reduce the frequency of occurrence of such conditions; to minimize the amount by which said limits are exceeded; and to reduce the length of time for which said limits are exceeded; and shall, upon request of the Superintendent, submit to him a full report of such occurrence, including a statement of all known causes and of the scheduling and nature of the actions to be taken pursuant to these Rules.

3. The above shall not apply to scheduled maintenance of air pollution control equipment except in those cases where the maximum reasonable effort, including off-shift labor where required, has been made to accomplish such maintenance during periods of shutdown of any related equipment.

II - 6 APPENDIX

A. Conversion Factors for Air Pollution Control Engineers

Multiply	By	To Get
Btu/hr input	10^{-7}	megawatts of steam-generated electricity (approx.)
stnd cu ft/sec	mol wt x 9.3	pounds of gas/hr
stnd cu ft/min	mol wt x 0.155	pounds of gas/hr
grams/sq m	2.85	short tons/sq m
grams/sq m/day	86.5	short tons/sq mi/mo
grains/stnd cu ft	1.89	pounds/1000 lb gas*
grains/stnd cu ft	2300	milligrams/stnd cu m
grains/stnd cu ft	2.30	grams/stnd cu m
grains/stnd cu ft (adjusted to 50% excess air)	2.20	pounds/10^6 Btu input
grams/stnd cu m	0.435	grains/stnd cu ft
grams of gas/stnd cu m	24.2×10^3/mol wt	ppm by vol
megawatts of steam-generated electricity	10^7	Btu/hr input (approx)
micrograms of gas/ stnd cu m	0.0242/mol wt	ppm by vol
milligrams of gas/ stnd cu m	24.2/mol wt	ppm by vol

Multiply	By	To Get
milligrams/stnd cu m	4.35×10^{-4}	grains/stnd cu ft
ppm by vol	mol wt $\times 41.3 \times 10^{-6}$	grams of gas/stnc cu m
ppm by vol	mol wt $\times$ 0.0413	milligrams of gas/stnd cu m
ppm by vol	mol wt $\times$ 41.3	micrograms of gas/stnd cu m
ppm by vol	10^{-4}	percent by vol
Percent by vol	10^{4}	ppm by vol
Pounds of gas/hr	6.48/mol wt	stnd cu ft/min
Pounds of gas/hr	0.108/mol wt	stnd cu ft/sec
Pounds/1000 lb gas*	0.53	grains/stnd cu ft
Pounds/1000 lb gas* (adjusted to 50% excess air)	1.18	pounds/10^6 Btu input
Pounds/10^6 Btu input	0.45	grains/stnd cu ft (adjusted to 50% excess air)
Pounds/10^6 Btu input	0.85	pounds/1000 lb gas* (adjusted to 50% excess air)
short tons/sq mi	0.35	grams/sq m
short tons/sq mi/mo	0.0116	grams/sq m/day

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* mol wt = 29

m = meter

mol wt = molecular weight

stnd = standard at 70F and atmospheric pressure

B. Source Emission Measurement

Measurement of emissions of particulate matter from a particular source will be made according to the procedures recommended in the ASME Power Test Code 27-1957 "Determining Dust Concentration in a Gas Stream." Two copies of the ASME Power Test Code 27-1957 shall be filed with the City Clerk.

(51.13) REGULATION III, OPEN BURNING RESTRICTIONS

It shall be unlawful for any person to cause, suffer or allow the emission of air contaminants as a result of open burning except in conformity with the limits set forth as follows:

III - 1, REFUSE-BURNING RESTRICTIONS

1. No person shall dispose of refuse by open burning or cause, suffer, allow, or permit open burning of refuse except as provided in following sub-sections 2, 3, and 4 of those regulations.

2. One single family dwelling on residential premises (considered a residential lot) shall be permitted to burn refuse papers (not garbage or similar products) originating in that single dwelling between the hours of 10:00 A.M. and 4:00 P.M.

3. In areas where no public refuse collection service is available on the effective date of this regulation, the open burning of refuse on residential premises of three families or less, of refuse originating in dwelling units on the same premises, shall not be in violation of this regulation until such refuse collection service becomes available.

4. In areas of low population density, open burning of refuse on residential premises of three families or less, of refuse originating in dwelling units on the same premises shall not be a violation of this regulation. The Director, with concurrence of the Board, after consultation with public agencies concerned with refuse collection and disposal, shall elect and publish the specific boundaries in areas in which such open burning or refuse will not be in violation of this regulation. In selecting such areas, he shall use a density of 100 families or less per square mile as an approximate definition of areas of low population density and he shall give due consideration to the desirability of having restrictive air pollution control regulations within the counterminous area comprising the Indianapolis metropolitan area under air pollution control. The Director, with the concurrence of the Board, shall select and publish revised boundaries, as described above, from time to time as population density changes.

5. Any open burning of refuse permitted by previous sub-section 2 or 3 of this regulation shall be permitted only between the hours of 10:00 A.M. and 4 P.M.

III - 2, PROHIBITION OF SALVAGE OPERATIONS BY OPEN BURNING

No person shall conduct or cause or permit a salvage operation by open burning.

III - 3, RESTRICTIONS ON OPEN BURNING OF TRADE WASTES

1. No person shall cause or permit the disposal of trade wastes by open burning, except as provided in following sub-section 2 of this regulation.

2. The open burning of trade wastes may be permitted when it can be shown by a person that such open burning is absolutely necessary and in the public interest. Any person intending to engage in open burning of trade wastes shall file a request to do so with the Director.

   The application shall state the following:

   (a) The name, address, and telephone number of the person submitting the application.

   (b) The type of business or activity involved.

   (c) A description of the proposed equipment and operating practices, the type, quantity, and composition of trade wastes to be burned, and the expected composition and amount of air contaminants to be released to the atmosphere.

   (d) The schedule of burning operations.

   (e) The exact location where open burning will be used to dispose of trade waste.

   (f) Reasons why no method other than open burning can be used for disposal of trade waste.

   (g) Evidence that the proposed open burning has been approved by any fire department which may have jurisdiction. Upon approval of the application by the Director, the person may proceed with the operation without being in violation of sub-section 1.

III - 4, RESTRICTIONS ON OPEN BURNING OF AGRICULTURAL WASTES

1. The burning of plant life is prohibited except as provided in sub-section 2 and 3 of this regulation.

2. Open burning of plant life grown on the premises in the course of any agricultural operations may be permitted when it can be shown that such open burning is necessary and that no fire hazard will occur. Any person intending to dispose of plant life by open burning shall file a request to do so with the Director on forms provided by him. Such form shall require the provision of such information as the Director shall reasonably need to determine the air pollution aspects of the situation and whether the request should be granted. The applicant shall furnish the Director evidence that the proposed open burning has been approved by any fire department which may have jurisdiction. Upon approval of the application by the Director the person may proceed with the operation without being in violation of this sub-section.

3. Any open burning permitted under provisions of sub-section 2 of this regulation shall be permitted only between the hours of 10:00 A.M. and 4:00 P.M. and only at times when the actual or forecast surface wind speed, as given by the local U.S. Weather Bureau is 5 miles per hour or greater.

III - 5, RESTRICTION ON OPEN BURNING OF TREE LEAVES

1. The open burning of tree leaves in such manner as to cause nuisance, detriment, or annoyance to any person or the public is prohibited.

2. The open burning of leaves is prohibited except between the hours of 10:00 A.M. and 4:00 P.M.

(50.6)
(12.0)

REGULATION IV, ODORS AND GASEOUS EMISSIONS

It shall be unlawful for any person to cause, suffer, or allow, contrary to the requirements of this regulation, the emission of gaseous or odoriferous emissions in the atmosphere, alter or revise such control devices relevant thereto, or install facilities for the processing or handling of certain materials which may permit release of gaseous emissions.

IV - I, EMISSION OF ODOROUS GASES

A. No person shall cause, suffer, allow, or permit the emission of gaseous materials in such quantities to cause an "objectionable odor":

1. In areas zoned residential.

2. In areas zoned light industrial, when the ambient air diluted with 5 parts of odor-free air (5/1 dilution) is determined to be an "objectionable odor," or

3. In areas zoned medium or heavy industrial, when the ambient air is diluted with 20 parts odor-free air (20/1 dilution), and is still determined to be objectionable.

B. Zoned Areas

Zoned areas referred to in this section (See IV-I-A) shall be as those defined in the Industrial Zoning Ordinance of Marion County, Indiana, as prepared by the Metropolitan Plan Commission, Docket No. 63-AO-4, dated November 7, 1963.

IV - 2, MOTOR VEHICLE OPERATION

A. Internal Combustion Engines

No person shall cause, suffer, allow, or permit the emission of visible air contaminants from a motor vehicle which are:

1. Of a shade or density equal to or darker than that designated as No. 2 on the Ringelmann Chart.

2. When the presence of uncombined water is the only reason for failure of emission to meet the requirements of this paragraph, the provision of this regulation shall not apply.

B. Compliance With Federal Emissions Standards

The Federal Clean Air Act of 1963 (P.L. 88-206) as amended in 1965 (P.L. 89-272) provides for control of air pollution for new motor vehicles beginning with the 1968 model year. It shall be unlawful for any person to fail to maintain in good working order, remove, dismantle, or otherwise cause to be inoperative, any equipment or feature constituting an operational element of the air pollution control system or mechanism of the equipment, as may be prescribed by the Clean Air Act.

IV - 3, PETROLEUM STORAGE SYSTEMS

A. No person shall build or install, or permit the building or installation of any stationary tank, reservoir, or other container of more than 65,000 gallon capacity which will or might be used for the storage of any petroleum distillate having a vapor pressure of 2.0 pounds per square inch absolute or greater under actual storage conditions, unless such tank, reservoir, or container is to be a pressure tank capable of maintaining working pressure sufficient at all times to prevent hydrocarbon vapor or gas loss to the atmosphere, or is designed and built and equipped with one of the following vapor loss control devices:

1. A floating roof consisting of a pontoon type or double-deck type roof which will rest on the surface of the liquid contents and be equipped with a closure seal or seals to close the space between the roof edge and tank wall. The control equipment provided for in this paragraph shall not be permitted if the gasoline or petroleum distillate to be stored will have a vapor pressure of 12 pounds per square inch absolute or greater under actual storage conditions. All tank gauging and sampling devices shall be built so as to be gas-tight except when gauging or sampling is to take place.

2. A vapor recovery system consisting of a vapor gathering system capable of collecting the hydrocarbon vapor and gases discharged, a vapor disposal system capable of processing such vapors and gases so as to prevent their emission to the atmosphere, and with all tank gauging and sampling devices gas-tight except when gauging or sampling is taking place.

3. Such other equipment or means of equal efficiency for purposes of air pollution control as may be approved by the Director.

B. Submerged Fill Pipes Required

No person shall build or install or permit the building or installation of a stationary gasoline storage tank with a capacity of 250 gallons or more, unless such tank is equipped with a submerged fill pipe or is a pressure tank as described in Paragraph A-1 of this section of the regulation, or is fitted with a vapor recovery system as described in Paragraph A-2 of this section of the regulation. A submerged fill pipe is a fill pipe, the discharge opening of which is entirely submerged when the liquid level is 6 inches above the bottom of the tank. A submerged fill pipe when applied to a tank which is loaded from the side is defined as any fill pipe, the discharge opening of which is entirely submerged when the liquid level is 18 inches above the bottom of the tank.

(15.0) ARTICLE 10 - PENALTY

Section 10.1. Any person, firm, corporation or organization found guilty of violation of this ordinance or the rules and regulations made a part hereof or pursuant to the authority granted by this ordinance, may be fined in the sum not exceeding $300.00 or imprisonment not to exceed ten (10) days which may be added for any second or subsequent offense. Each day's violation shall constitute a separate offense.

(2.0) ARTICLE 11 - EFFECTIVE DATE OF ORDINANCE

Section 11.1. This Ordinance shall be in full force and effect from and after the 1st day of January 1968, upon passage by the Common Council, approval by the Mayor and publication as by law required.

After the final effective date, and upon repeal of all prior ordinances relating to air pollution control the City Clerk shall insert this Ordinance into the City Code of Ordinances and renumber the sections hereof to comply with their proper order in said Municipal Code of Ordinances and shall also receive all rules and regulations in two (2) copies and keep them among the permanent records of such office.

AIR QUALITY
CONTROL ORDINANCE
CITY OF MICHIGAN CITY, INDIANA

(2.0) ARTICLE I

GENERAL PROVISIONS

(2.0) Sec. 1.1 Short Title.

This ordinance shall be known and cited as the "Air Quality Control Ordinance."

(2.0) Sec. 1.2 Purpose.

This ordinance is designed to control air pollution by establishing the Division of Air Pollution Control within the Department of Public Health in the City of Michigan City. Indiana, prescribing the duties of the Chief of Air Pollution Control, providing for the investigation of alleged violations and their abatement where found, setting out reasonable, clear and readily enforceable rules and regulations, establishing an Air Pollution Control Advisory Board, establishing an Air Pollution Appeals Board, providing for the registration of all commercial, industrial and multiple-dwelling unit air pollution sources, prescribing a schedule of fees and providing for the issuance of permits for the installation, construction, addition to, alteration and operation of process, fuel-burning and refuse-burning equipment and controls, providing for periodic inspection and testing of the aforesaid equipment and controls, establishing limitations upon the emission of air pollutants, declaring emissions which do not meet such limitations to be unlawful and a public nuisance, prohibiting certain acts causing air pollution, providing for fines and penalties for violation of the provisions of this ordinance, and providing just and adequate means by which the provisions of this ordinance may be enforced.

(1.0) Sec. 1.3 Definition of Terms.

The following words and phrases when used in this ordinance shall, for the purpose of this ordinance, have the meanings respectively ascribed to them in this article, unless a different meaning is clearly indicated.

"Air Contaminant." Any smoke, soot, fly ash, dust, cinders, dirt, noxious or obnoxious acids, fumes, oxides, gases, vapors, odors, toxic or radioactive substances, waste, particulate, solid, liquid or gaseous matter, or any other materials in the outdoor atmosphere, but excluding uncombined water.

"Air Pollution." The presence in the outdoor atmosphere of one or more contaminants or combination thereof in such quantities and of such duration that they are or may tend to be injurious to human, plant or animal life or property, or that interfere with the comfortable enjoyment of life or property or the conduct of business.

"ASME" The American Society of Mechanical Engineers.

"ASTM" The American Society for Testing Materials.

"Ashes" includes cinders, fly ash or any other solid material resulting from combustion, and may include unburned combustibles.

"Advisory Board." The board created by this ordinance to act as the air pollution control advisory board to the Chief and the Board of Health.

"Appeals Board." The Air Pollution Appeals Board created by this ordinance to act as provided for in Section 2.5 of this ordinance.

"Certificate of Operation." A certificate issued by the Chief authorizing the use of any process, fuel-burning refuse-burning or control equipment for the period indicated after it has been found that it can be operated in compliance with the ordinance.

"City." City of Michigan City, Indiana.

"Chief." Chief of the Division of Air Quality Control of the City of Michigan City Health Department, the duly authorized representative of the Health Officer.

"Control Equipment." Any process which regulates fuel-burning refuse-burning or process equipment which may release contaminants, and thus reduces the creation and/or emission of air pollutants into the atmosphere.

"Council." The Common Council of the City of Michigan City.

"Department." The Department of Health of the City of Michigan City.

"Health Officer." The Health Officer of the department.

"Domestic Heating Plant." A plant generating heat for a single residence, or for two residences either in duplex or double-housing form. Under this designation are also hot water heaters, stoves and space heaters used in connection with the foregoing establishments, or to heat temporary buildings; provided, however, that like equipment used in multiple-dwelling units or in permanent buildings of commercial or industrial establishments, is not to be construed as included under this designation.

"Domestic Refuse-Burning Equipment." Any refuse-burning equipment or incinerator which is portable, packaged, completely assembled, and direct fed, having not over five (5) cubic feet capacity or twenty-five (25) pounds per hour burning rate, designed to handle combustible refuse consisting of approximately equal amounts of rubbish and garbage by weight.

"Emission." The passing or ejecting of matter into the atmosphere or the material so passed.

"Fuel-burning Equipment." Any equipment or device used to produce heat by combustion, including ducts, breechings, control equipment, fuel-feeding equipment, ash-removal equipment, combustion controls, stacks and chimneys.

"Incinerator." Any device intended or used for the reduction of refuse by burning.

"Installation Permit." A permit authorizing the construction, installation or alteration of any pollutant-producing process, fuel-burning refuse-burning or control equipment in accordance with plans and specifications approved by the Chief.

"Mayor." The Mayor of the City of Michigan City, Indiana.

"Open Burning." Burning from which the products of combustion are emitted directly into the outdoor atmosphere without passing through a stack.

"Particulate Matter." Finely-divided material other than uncombined water which is suspended in air or other gases as a liquid or solid.

"Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

"Process Equipment." Any equipment or device for changing storing or handling any material, and all appurtenances thereto, including ducts, stacks, etc., the use or existence of which may cause any discharge of air pollutants into the outdoor atmosphere, but not including that equipment specifically defined as fuel-burning equipment or refuse-burning equipment in this ordinance.

"Process Weight." The total weight of all materials introduced into a unit operation or unit process, including solid fuels, but excluding liquid fuels and gaseous fuels when these are used solely as fuels, and excluding air introduced for purposes of combustion.

"Process Weight Per Hour." A rate established as follows:

a. For continuous or long-run steady-state unit operation or unit process, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof.

b. For cyclical or batch unit operation or unit process, the total process weight for a period that covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such a period.

Where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply.

"Refuse-burning Equipment." Any incinerator, equipment or device used for the destruction of refuse and/or wastes by burning and all appurtenances thereto.

"Salvage Operations." Any operation conducted in whole or in part for the salvaging or reclaiming of any product or material.

"Seal." A device affixed to fuel-burning, refuse-burning process control equipment or premises in violation of this ordinance, so as to prevent their use.

"Smoke." Small air-borne particles resulting from incomplete combustion consisting predominantly of ash and carbon.

"Stack." Duct, chimney, flue, conduit, or opening arranged for the emission into the outdoor atmosphere of air pollutants.

"Unit Operation." Methods where raw materials undergo physical change; methods by which raw materials may be altered into different states, such as vapor, liquid, or solid without changing into a new substance with different properties and composition.

"Unit Process." Reactions where raw materials undergo chemical change; where one or more raw materials are combined and completely changed into a new substance with different properties and composition.

(2.0) ARTICLE II

ADMINISTRATIVE ORGANIZATION

(15.0) Sec. 2.1 Administrative Organization and Enforcement.

a. This ordinance shall be effective throughout the City of Michigan City, and such additional areas as may be included under its Planning and Zoning regulations.

b. This ordinance shall be administered and enforced by the Division of Air Pollution Control.

c. The position of Chief of Air Quality Control is hereby created in the Department of Health. The Chief shall be appointed by the Board of Health.

d. The Chief shall perform such duties as may be required of him by the Health Officer relative to Air Pollution. He shall have charge of, and be responsible for, all work performed by the Division, and shall supervise the execution of all laws, rules and regulations pertaining to air pollution as provided in this ordinance.

e. The Chief shall be qualified by technical training, have a suitable knowledge of the theory and practice of air pollution control, and be qualified by education and experience to cooperate with scientific, educational and civic organizations interested in air pollution control.

(15.0) Sec. 2.2 Powers and Duties of the Chief.

The Chief shall perform the following duties:

a. Supervise the execution of all laws, ordinances, rules and regulations pertaining to air pollution as provided in this ordinance.

b. Record and investigate alleged violations of this ordinance, and make inspections and tests as necessary to determine if a violation exists. Report findings to complainant and Air Pollution Control Advisory Board.

c. Institute legal proceedings to prosecute violations of this ordinance and compel compliance therewith.

d. Examine, and approve or disapprove, the plans for the installation, construction, reconstruction or alteration of fuel, refuse-burning, process and control equipment.

e. Inspect and test existing and newly-installed, repaired, constructed, reconstructed or altered fuel, refuse-burning, process and control equipment.

f. Approve or reject application for permits, and issue certificates of operations, notices or other documents required under the provisions of this ordinance.

g. Prepare proposals for amendments to this ordinance or for additions or revisions to regulations pertaining to air pollution abatement, and present them to the Air Pollution Control Advisory Board, Board of Health, Mayor and Common Council.

h. Encourage voluntary compliance with this ordinance by persons or groups affected by it.

i. Collect and disseminate information on air pollution control.

j. Advise planning, zoning and other governmental agencies regarding a coordinated approach to air pollution abatement.

k. Cooperate and work with federal, interstate, state, county, district, municipal and other agencies involved with air pollution.

l. Make all rules and regulations necessary to the administration of the Division of Air Pollution, subject to approval by the Air Pollution Control Advisory Board.

m. Prepare and maintain all department records.

(2.0) Sec. 2.3 Air Pollution Inspectors.

a. Air Pollution inspectors shall be employees of the Division, qualified by technical training in the theory and practice of the construction and operation of combustion and process equipment or in the theory and practice of smoke abatement and air pollution control.

b. No person employed in the Division, or any member of his family, shall have a financial interest in any firm which sells fuel or which manufactures, leases or sells combustion or process equipment, gas removal devices, smoke abatement or air pollution control equipment, or the apparatus or devices connected therewith or any extensions thereof.

c. The Duties of the inspectors shall be to carry out the directions of the Chief, and to aid and assist him in the discharge of his duties.

(16.0) Sec. 2.4 Air Pollution Control Advisory Board.

a. An Air pollution Control Advisory Board shall be appointed by the Mayor. This Board shall study the problem of air pollution within the City, and shall from time to time recommend to the Board of Health and/or the Chief appropriate means of air pollution abatement, including amendments to this ordinance.

b. The Air Pollution Control Advisory Board shall consist of not less than seven (7) nor more than nine (9) members. Nor more than two two (2) members of said Board shall hold public office. This Board shall consist of at least one industrial chemist, at least one graduate engineer, registered in Indiana, at least one physician licensed to practice medicine in Indiana, and at least one attorney licensed to practice law in Indiana. Initially two (2) members shall be appointed for a term of one year, two (2) members for a term of two years, and the remainder for a term of four years. Upon expiration of any term, subsequent appointments shall be for a term of four years. Members shall serve without compensation. The Board of Health shall make recommendations to the Mayor for such appointments.

c. The Air Pollution Control Advisory Board shall elect a chairman, who shall serve for a term of two (2) years. A quorum shall consist of a majority of the members of the Board. The Mayor shall appoint members to fill all vacancies. The Chief shall be an ex-officio, non-voting member of the Board and shall act as secretary to the Board.

d. The Advisory Board shall hold a regular annual meeting and other meetings at such times as may be called by the chairman. The chairman shall call a special meeting upon the written request of at least three members of the Air Pollution Control Advisory Board or at the request of the Chief. The Air Pollution Control Advisory Board shall keep minutes of its proceedings, showing its official actions and the vote of each member.

e. The Air Pollution Control Advisory Board shall confer with and advise the Board of Health and the Chief on needed amendments to this or any other ordinance pertaining to air pollution, on revisions or additions to rules and regulations of the Department and on any matters concerning air pollution and its abatement.

(16.0) Sec. 2.5 Appeals Board.

An air Pollution Appeal Board is hereby created and shall consist of three (3) members appointed by the Mayor of the City of Michigan City, one of whom shall be designated by the Mayor as Chairman, and one of whom shall be designated by the Mayor as secretary; any two members shall constitute a quorum. One (1) member shall be an attorney licensed to practice law in the State of Indiana. Term of office shall be four (4) years, except that initial appointments for two of the members shall be for terms of two and three years, to be designated by the Mayor at the time of appointment. The term of each member shall continue until his respective successor has been duly appointed. If a vacancy occurs in the Appeal Board, the Mayor shall appoint a member for the remainder of the unexpired term. Members appointed to fill vacancies shall have the same qualifications required of their predecessors.

The Appeal Board shall convene at the call of the Chairman and at such other times as the Appeal Board may determine. The Appeal Board shall have the power to adopt and enforce rules of procedure, subject to state laws governing administrative procedures and practice. All hearings conducted by the Appeal Board shall be open to the public.

The Appeal Board shall keep records of its hearings and other official actions. All rules and regulations adopted by the Appeal Board, every amendment or repeal thereof, and every order, decision, requirement or determination of the Appeal Board shall be filed promptly in the office of the Division of Air Pollution Control in the Department of Health of the City of Michigan City, and shall be a public record.

The Appeal Board is hereby vested with the jurisdiction and authority to decide appeals from any decision, ruling, regulation, determination or order made by the Health Officer or Chief under this ordinance, in the manner and subject to the standards set forth in Section 2.6 below.

Members of the Appeal Board shall be paid a per diem of Fifteen Dollars ($15.00) for each and every day, or part of a day, in actual attendance at any meeting or hearing of the Appeal Board, which per diem shall be a valid claim against the City of Michigan City Department of Health.

(2.0) Sec. 2.6 Appeals.

Any person affected by, and who objects to, a decision, ruling, requirement, rule, regulation or order of the Division of Air Pollution Control may file with the Chief an appeal directed to the Appeal Board, and specifying the grounds on which the appeal is based and the relief has been given. A fee of Forty-five Dollars ($45.00) shall be paid by the appellant to the Division of Air Pollution Control at the time of the filing of the appeal, to defray the costs of the hearing. Said fee shall be refunded if the Appeal Board finds in favor of the appellant. The Chief shall furnish to the Appeal Board all papers in his possession relative to each matter under appeal. Within ten (10) days after an appeal has been read, the Appeal Board shall set a date for a hearing, and shall give notice thereof by mail to the interested parties. Such hearing shall be scheduled for a date no later than thirty (30) days after the appeal has been filed. The Appeal Board may in its discretion grant continuances.

An appeal shall act as a stay of the decision, ruling, requirement, rule, regulation or order in question until the Appeal Board has taken final action on it. At the hearing any party may appear in person or by agent or attorney, and present written evidence and oral testimony pertinent to the questions and issues involved, and may examine and cross-examine witnesses. All testimony shall be given under oath. The Appeal Board, by majority vote, shall affirm, modify or reverse the decision, ruling, requirement, rule, regulation or order of the Division of Air Pollution Control. The decision of the Appeal Board shall be binding on the Division and the appellant, unless reversed by a court of competent jurisdiction upon judicial review.

The procedural provisions of the Administrative Adjudication and Court Review Act (Acts 1947, Chapter 365, Sections 1-30, p. 1451), all amendments and modifications thereof, and the Procedural Rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of decisions of the Appeal Board, and are hereby adopted and incorporated herein by reference. References in said Act to an agency of the State of Indiana shall be deemed references to the Air Pollution Appeal Board of the City of Michigan City, and references in said Act to the Attorney General shall be deemed references to the City Attorney.

The Appeal Board at its expense shall provide a reporter to take testimony and record all proceedings before the Appeal Board. The filed appeal, the notice of hearing, all exhibits, documents, pleadings and written motions filed or admitted as evidence in the proceedings, the transcript of testimony heard, the findings of fact, and the decisions made shall constitute the complete and exclusive record of such hearing. Any party to a hearing may obtain a copy of such record at his own expense.

An appellant who wishes to obtain certified copies of the record shall pay the sum of ninety-five cents (0.95) per page to the Chief. The Secretary of the Appeal Board shall certify the record.

(2.0)

ARTICLE III

STANDARDS AND RECOMMENDED PRACTICES

Sec. 3.1 Adopted Standards or Recommended Practices.

Where reference is made in this ordinance to the standards or recommended practices of national technical societies, associations or other organizations, such information shall form and be considered an integral part of the ordinance in the same manner and extent as if fully reproduced therein. Not less than two copies of such standards or recommended practices shall be kept on file at all times in the office of the Chief and shall be available for perusal by the public.

(3.0)

ARTICLE IV

INSTALLATION PERMITS AND CERTIFICATES OF OPERATION

Sec. 4.1 Permit Required.

No person shall construct, install, reconstruct or alter any process, fuel-burning, refuse-burning or control equipment pertaining thereto, for use within the City, which may emit contaminants into the atmosphere, until proper application has been made to, and approved by, the Chief, and a Permit has been issued. The application shall include not less than two sets of properly prepared plans and specifications for the process, fuel-burning, refuse-burning or control equipment, except as stated in Section 4.5.

Sec. 4.2 Application Information.

The above-mentioned plans or specifications shall include the description, form and dimensions of the process, fuel-burning, refuse-burning or control equipment, the building or part thereof in which such equipment is to be located, the means provided for admitting air for combustion, the composition of the fuel to be used, the maximum quantity of such fuel to be burned per hour, the kind and amount of raw materials to be processed, the estimated maximum air contaminant emission rate and timetable, the operating charateristics, the purpose of such equipment, the contaminant concentration, gas volume and temperature at the emission point, the chemical composition and physical charateristics of contaminants emitted, the number of emission points, the location and elevation of each, and any other reasonable and pertinent information that may be requested by the Chief.

Sec. 4.3 Emergency Repairs.

Emergency repairs may be made to equipment covered by this ordinance without a Permit if the emission of excessive amount of contaminants could result if such repairs were deferred. When such repairs have been made, the person responsible shall notify the Chief on the first business day after the emergency occurred and shall file an application for a Permit.

Sec. 4.4 Time Limit on Applications.

The Chief shall approve or reject any application within thirty (30) calendar days after it has been filed in his office. The Chief shall notify the applicant in writing of his action, giving his reasons if the application is rejected. Upon approval of an application and payment of the prescribed fees, the Chief shall issue a permit.

Sec. 4.5 Alternate Action on Permit Application.

In the event the plans, specifications and information submitted to the Chief pursuant to Sections 4.1 and 4.2 reveal a proposal to construct, install, reconstruct or alter any process, fuel-burning, refuse-burning or control equipment of a highly complex or technically advanced design, the Chief may, at his option, before issuing a Permit, require the applicant to file at his office an affidavit to the effect that the proposed equipment or installation will comply with all of the application provisions and limitations of this ordinance. Upon the filing of such affidavit, the applicant may proceed with the proposed installation, subject, however, to the provisions of Section 4.9.

Sec. 4.6 Affidavit for Secret Process.

If an applicant deems the plans and specifications of any process or equipment to be secret, he may file an affidavit to the effect that such plans and specifications are secret and that performance of such process or equipment will conform with the provisions of this ordinance. Upon the filing of such affidavit the applicant may proceed with the proposed installation, subject, however, to the provisions of Section 4.9.

Sec. 4.7 Applicability of the Permit.

No construction, installation, reconstruction or alteration shall be made which is not in accordance with the plans, specifications and other information upon which the Permit was issued, without the written approval of the Chief.

Sec. 4.8 Permit Violation.

Violation of the Permit shall be sufficient cause for the Chief to stop all work in connection therewith, and he is herby authorized to seal the equipment in violation. No further work shall be done until the Chief is satisfied that the violation will be corrected and that the work will proceed in accordance with the permit.

Sec. 4.9 Time Limit on Permits.

If construction, installation, reconstruction or alteration is not completed within one (1) year of the date the Permit was issued, or within the period of time specified in the Permit, unless an extension of time is shown to be warranted and is then granted by the Chief, the Permit shall become void.

Sec. 4.10 Certificate of Operation.

No person shall operate or cause to be operated any fuel-burning refuse-burning, process or control equipment or any equipment pertaining thereto for which a Permit is required or was issued under this ordinance until it has been inspected by the Chief. The person responsible for the installation, construction or alteration of any process, fuel-burning, or control equipment for which a Permit is required shall notify the Chief when the work is completed and ready for final inspection. After it has been demonstrated to the satisfaction of the Chief that the process, fuel-burning, refuse-burning or control equipment can be operated in compliance with this ordinance, the Chief shall issue a Conditional Certificate of Operation. The Chief shall then conduct, or cause to be conducted, such emission and other tests as he may deem necessary before issuing a Certificate of Operation. If the tests show that the equipment does not operate within the limitations and requirements of this ordinance, the Chief shall order that changes in the process, fuel-burning, refuse-burning, or control equipment or appurtenances be made. The Chief is authorized to seal the process, fuel-burning, refuse-burning, or control equipment until the person required to procure the Certificate of Operation shall have made the changes necessary to bring the equipment into compliance with this ordinance. No person shall operate, or cause to be operated, any equipment for any other purpose or in any other manner than that for which the Permit was approved and for which a Certificate of Operation was issued, unless authorized in writing by the Chief to do so. The Certificate of Operation shall be kept posted on or near the equipment for which it was issued. The Certificate of Operation shall identify the equipment for which it was issued and shall specify class of fuel, type of refuse, or type of raw materials being used at the time the tests were made. A Certificate of Operation shall remain in force until rendered void by alteration of the equipment or sealing of the equipment under Article X.

Sec. 4.11 Certification of Operation Required for Existing Equipment.

Any person operating or causing to be operated any fuel-burning, refuse-burning, process or control equipment at the time of the adoption of this ordinance shall apply within sixty (60) days for a Certificate of Operation. Such application shall include not less than two (2) sets of plans and specifications containing the information required in Section 4.2 The Chief shall collect a fee for each such certificate as set out in Article V. The Chief is hereby authorized to seal any existing equipment if application for a Certificate of Operation is not filed within sixty (60) days of the adoption of this ordinance.

Sec. 4.12 Domestic Heating Plants and Domestic Refuse-burning Equipment Excluded.

Sections 4.1 through 4.11 shall not apply to domestic heating plants or to domestic refuse-burning equipment.

Sec. 4.13 Heating Plants of Less than 1,000,000 BTU/Hr. Input.

Sections 4.1 through 4.11 shall not apply to heating plants of less than 1,000,000 BTU/Hr. input.

Sec. 4.14 Prosecution of Ordinance Violations.

The issuance by the Chief of a Permit or Certificate of Operation shall not be held to exempt the person to whom the Permit or Certificate was issued from prosecution for violation of any provisions of this ordinance.

(2.0)

ARTICLE V

CHARGES

Sec. 5.1 Charges for Permits, Certificate of Operation, and Inspections.

The charge for the inspection of premises and equipment pertaining to the issuing of Permits and Certificates of Operation shall be at the rate of Ten Dollars ($10.00) per man hour. The Chief shall send a statement of charges to the person whose equipment was inspected.

Sec. 5.2 Payment of Charges.

Payment of charges for inspections described above shall be made to the City Controller, who shall render to the person making such payment a receipt. A duplicate of the receipt shall be sent to the Chief and made part of the records of the Department.

Sec. 5.3 Charges are Debt due the City-Suit for.

All charges, payment of which is required under this Article, shall constitute a debt due the City. The City Attorney, at the direction of the Chief, shall institute civil suit in the name of the City to collect any unpaid charges. No civil judgment, or any act by the City Attorney, the Chief, or the violator shall bar or prevent criminal prosecution for each and every violation of this chapter.

(9.0)
(50.0)

ARTICLE VI

EMISSION LIMITATIONS AND PROHIBITIONS-STANDARDS OF MEASUREMENT

(50.1.2) Sec. 6.1 Visible Emissions.

It shall be unlawful for any person to cause to be discharged into the atmosphere, from any combustion or process equipment or any device, vehicle, incinerator or open fire any air contaminant for a period or periods aggregating more than five minutes in any one hour which is:

a. As dark or darker than Shade No. 2 on the Ringlemann Chart published by the United Bureau of Mines, or

b. Of such opacity as to obscure an observer's view to a degree equal to or greater than described in subsection (a) of this section.

(51.5) Sec. 6.2 Emission of Particulate Matter from Fuel-Burning Equipment.

No person shall cause or allow particulate matter in the gases from any fuel-burning equipment to be emitted into the outdoor atmosphere or to pass a convenient measuring point near the stack outlet in excess of 0.60 lbs. per 1,000,000 BTU heat input for fuel burning units using less than 10,000,000 BTU per hour total input. The allowable particulate emission rates for single units using more than 10,000,000 BTU per hour total input are set out in Figure 1 on page 21. If two or more fuel-burning units connect to a single stack, the allowable emission rate for the stack shall be the sum of the emission rate allowed each unit.

(50.1)
(51.9) Sec. 6.3 Emission of Particulate Matter from Incinerators.

a. No person shall cause or allow particulate matter in the gases from any incinerator, refuse-burning equipment or premises to be emitted into the outdoor atmosphere, or to pass a convenient measuring point near the stack outlet, in excess of 0.65 pounds for each 1,000 pounds of dry flue gases adjusted to 12% carbon dioxide (excluding the effects of any auxiliary fuel).

b. No person shall cause or allow to be emitted into the outdoor atmosphere odors which are detectable beyond his premises.

(50.1.1) Sec. 6.4 Emission of Particulate Matter from Industrial Process Equipment.

The maximum allowable emission of particulate matter from any source whatever except fuel-burning and refuse-burning equipment is set out in Table 1 on page 22 hereof. If two or more process units connect to a single stack, the allowable emission rate for the stack shall be the sum of emission rate allowed each unit.

(51.16) Sec. 6.5 Storage of Petroleum or other Volatile Products.

No person shall place, store or hold in any stationary tank, reservoir or other container of more than 65,000 gallons capacity, any petroleum product or mixture of products having a vapor pressure greater than 2.0 pounds per square inch absolute under actual storage conditions, unless such tank, reservoir or other containers is a pressure tank maintaining working pressures sufficient at all times to prevent hydrocarbon vapor or gas loss to the atmosphere, or is designed and equipped with one of the following vapor-loss control devices, properly installed, in good working order and in operation:

a. A floating roof, consisting of a pontoon or double-deck type roof, resting on the surface on the liquid contents and equipped with a closure seal, or seals, to close the space between the roof edge and tank wall. The control equipment provided for in this paragraph shall not be used if the gasoline or petroleum distillate has a vapor pressure greater than 12.0 pounds per square inch absolute under actual storage conditions. All tank gauging and sampling devices shall be gas tight except when gauging or sampling is taking place.

b. A vapor-recovering system capable of collecting and condensing vapors so as to prevent their emission into the atmosphere. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

c. Other equipment of equal efficiency, provided plans for such equipment are submitted to and approved by the Chief.

(51.16) Sec. 6.6 Loading of Volatile Petroleum Distillates into Tanks and Trucks, Trailers and Railroad Tank Cars.

No person shall load volatile petreleum distillates into any tank, truck or railroad car unless the loading facility utilizes a submerged fill pipe or is equipped with a vapor collection and disposal system or its equivalent, which has been properly installed, is in good working order, is in operation and has been approved by the Chief.

For purposes of this section the term "volatile petroleum distillate" is defined as any petroleum distillate having a Reid vapor pressure of

4 pounds per square inch or greater.

For purposes of this section the term "submerged fill pipe" is defined as any fill pipe the discharge opening of which is entirely submerged when the liquid level is 6 inches above the bottom of the tank. "Submerged fill pipe" when applied to a tank which is loaded from the side is defined as any fill pipe the discharge opening of which is entirely submerged when the liquid is 18 inches above the bottom of the tank.

(50.2) Sec. 6.7 Sulfur Oxides.

No person shall cause or allow any emission of sulphur oxides which result in average ground level concentrations exceeding either 0.50 ppm (volume) for any one hour period of 0.10 ppm (volume) for any 24 hour period. These limitations shall not apply to ground level concentrations occurring on the property from which such emission occurs.

(9.0) Section 6.8 Stack Emission Test Method.

The latest "A.S.M.E. Test Code for Dust Separating Apparatus," "A.S.M.E. Test Code for Determining Dust Concentrations in Gas Streams," or other professionally recognized testing procedure may be used to measure stack emissions after consideration and approval by the Air Pollution Control Advisory Board.

(51.13) Sec. 6.9 Open Burning.

a. No person shall cause or allow open burning of refuse, unless a Refuse-Burning Permit has been obtained from the Chief.

b. A Refuse-Burning Permit shall be for a specified time period, not to exceed one (1) year, and shall show the expiration date on its face.

c. The open burning of refuse shall be permitted only when it can be shown that such open burning is absolutely necessary and in the public interest. Any person desiring to engage in open burning of refuse shall file an application for a Refuse-burning Permit with the Chief. The application shall state the following information and such additional information as the Chief may require.

    1. The name, address, and telephone number of the person submitting the application.

    2. The type of business or activity involved.

    3. The description and exact location, especially in relation to adjacent buildings, of the burning site, any equipment to be used,

and proposed operating procedures.

4. The schedule of burning operations.

5. The type, quantity and composition of the material to be burned.

6. The reasons no method other than open burning can be economically used.

7. Evidence that the proposed open burning has been approved as safe by the Michigan City Fire Department.

c. The Chief may, in his discretion, impose any reasonable restrictions on open burning which are necessary to prevent the creation of a nuisance or hazard to the public.

(51.13) Sec. 6.10 Prohibition of Salvage Operations by Open Burning.

No person shall conduct a salvage operation involving open burning, or allow his property to be used for such burning.

(12.0) Sec. 6.11 Internal Combustion Engine Emission Limits.

a. No person shall operate, or cause to be operated, upon any street, highway, public place or private premises within the City and stationary or moving internal combustion engine which emits air contaminants for a total of three or more minutes in any one hour which show darker than shade No. 2 on the Ringelmann Chart, published by the United States Bureau of Mines.

b. Of such opacity as to obscure an observer's view to a degree equal to or greater than described in Subsection (a) of this section.

(50.7) Sec. 6.12 Nuisance Abatement.

a. It shall be unlawful for any person to cause or allow the emission of air contaminants from any source in such quantity as to endanger the health, comfort or safety of any person or the public, or to cause or have a tendency to cause damage or impairment to property or business. Any emission of air contaminants in excess of the limitations established in this ordinance is hereby declared a public nuisance and shall be unlawful, and may be ordered abated by the Chief. Each day, subsequent to such an abatement order by the Chief, that the violation continues shall constitute a separate offense.

b. It shall be unlawful for any person to cause or allow the handling, transporting, or disposal of any substance or material in such manner that it is likely to be scattered by the wind, or become windborne, without taking reasonable preventive measures. It shall be unlawful for any owner, manager, agent, operator, foreman or other person to operate or maintain, or cause to be operated or maintained, any premises, open area, right of way, storage pile of materials, vehicle, any construction, alteration, demolition, or wrecking operation, or any other activity involving materials or substances likely to be scattered by the wind or to become windborne, without taking reasonable preventive measures.

c. Nothing in any section of this ordinance relating to regulation of emission of air contaminants shall be construed as authorizing or legalizing the creation or continuance of a nuisance.

(7.0) Sec. 6.13 Breakdown of Equipment.

Emissions exceeding any of the limits established in Article VI due to breakdown of any process, fuel-burning, refuse-burning or control equipment, or related operating equipment, which is beyond the control of the person owning or operating such equipment, shall not be deemed to be in violation of Article VI provided that the owner or operator advises the Chief on the first business day after the breakdown occurred of the circumstances, and outlines a corrective program acceptable to the chief.

(2.0) Sec. 6.14 Circumvention.

No person shall build, erect or install for use in Michigan City, or use in Michigan City, any material, machine, equipment or device for the purpose of diluting, concealing or disguising normal emissions. An increase in the height of or other alteration to a stack so as to increase the stack exit velocity shall not constitute a violation of this section.

(2.0)

ARTICLE VII

COORDINATION OF DEPARTMENTS

(3.0) Sec. 7.1 Issuance of Permits

No Building Permit for the erection, construction, or alteration of any building, plant or structure, which will contain fuel-burning or process equipment which may be a source of air contaminants, shall be issued by the City Building Inspector or by any department, bureau, division, officer or employee of the City, until the Chief of the Division of Air Pollution Control has issued a permit covering the equipment to be used in the building, plant or structure.

(2.0) Sec. 7.2 Coordination.

It shall be the duty of the various departments, bureaus, divisions, officers and employees of the City, having charge of the inspection of the premises in which such equipment is located, to cooperate with the Chief to establish that any work authorized by said Building Permit is done in conformity with the plans and specifications approved by the Chief.

(9.0)

ARTICLE VIII

SAMPLING AND TESTING

Sec. 8.1 Authority to Conduct Tests.

a. The Chief is hereby authorized to conduct, or cause to be conducted, tests for the purposes set forth in this ordinance. Upon notification by the Chief that emission tests are to be conducted, a person shall notify the Chief of this descision and of the time and date of such testing. Such tests shall be conducted in a manner, and within a period of time, acceptable to the Chief, and a complete, detailed report of such tests shall be submitted to the Chief. The Chief may stipulate that a representative of the Division be present during the conduct of such tests.

b. Nothing in this section concerning tests conducted by and paid for by any person shall be construed as limiting the powers of the Chief or his representatives to conduct separate or additional tests on behalf of the City at a reasonable time and at the City's expense, except as provided in Section 8.3 below.

Sec. 8.2 Test Facilities and Access.

It shall be the responsibility of the owner or operator of any equipment to be tested to provide, at his expense, adequate openings in the system or stack, and safe and easy access thereto, to permit technically valid samples and measurements to be taken. If a person refuses to supply test openings, access scaffolding, and other necessary facilities requested by the Chief for the conducting of emission tests, the Chief shall notify such person to show cause before him on a day certain, not less than ten (10) nor more than twenty (20) days from the date of notice, why said facilities should not be provided and, failing this, why the equipment should not be sealed.

Sec. 8.3 Test Costs.

If emission tests conducted as a result of the procedures outlined in Section 8.1 show that a violation exists, the person or persons liable for the violation shall be responsible for paying all costs of such tests. If said tests do not substantiate that a violation exists, then the City shall be responsible for paying the costs of the tests. Provided, however, if the person liable elects to conduct his own stack emission tests as stipulated in Section 6.8 and Section 8 1.he shall pay for such tests irrespective of their outcome. Nothing in this section shall be construed as relieving the owner or operator of the responsibilities set forth in Section 8.2.

(5.0)

ARTICLE IX

VARIANCES

Sec. 9.1 Variance Clause.

Where emission sources in existence prior to the adoption of this ordinance do not meet the emission limitations noted in Article VI above, a program to meet the emission limitations stipulated shall be developed and presented to the Chief by the owner of the equipment causing the emission. In evaluating such a program the Chief shall take into consideration the following factors:

1. Action taken to control the emission of contaminants with limitations in effect prior to this ordinance.

2. Efficiency of existing control equipment in comparison to that which would be required to meet the emission limitations of this ordinance.

3. Temporary interim control measures intended to minimize existing pollution levels.

4. The effect the source of emission has on ambient air quality in the City and in the immediate vicinity of the source.

5. The existing degree of control as compared to that of other similar facilities.

6. The age and prospective life of the facility in question.

7. The cost of converting or replacing existing equipment. If the program of compliance is approved by the Chief and endorsed by the Advisory Board, the program shall become binding on the owner and shall constitute compliance by the owner with the provisions of this ordinance. Periodic reports showing the progress of each program for compliance shall be submitted to the Chief. If the Chief determines that the program originally submitted by the owner is not being followed, the Chief may suspend the program and issue a violation notice. In the event the owner of the equipment causing the emission and the Chief cannot agree on a program of compliance, the matter shall be referred to the Advisory Board for their determination of a reasonable program, which, if accepted by the owner, shall be binding on both the owner and the Chief. In making their determination the Advisory Board shall take into consideration the factors noted in 1 through 7 above.

Sec. 9.2 Specific Variances.

a. Where the presence of uncombined water is the only reason for failure of an emission to meet requirements of a and b of Section 6.1 of this ordinance, such section shall not apply.

b. Experimental procedures on new or existing process, fuel-burning, refuse-burning or other equipment and/or devices, which may result in the emission of contaminants, may be conducted with the written approval of the Chief. Such approval shall be for a period not to exceed one (1) year. The Chief may impose conditions and limitations on the conduct of said experimental procedures which he deems reasonable to minimize any harmful effect of the experimental procedure on the ambient air. During the period of time said experimental procedures are conducted with the approval of the Chief, the provisions and limitations of Article VI shall not apply.

(2.0)

ARTICLE X

SEALING

Sec. 10.1 Sealing.

After sending three notices of violation of this ordinance to a person within any 12-month period the Chief shall then notify the violator by registered mail to come before him within ten days for a hearing and show cause why the equipment or premises in violation should not be sealed. The notice shall be directed to the last known address of the person responsible for the last violation or, if the person or his whereabouts is unknown, then the notice shall be posted on or near the premises at which the violations have occurred. The violator, his agent or attorney, may testify and present evidence at the hearing. If, upon consideration of the evidence, the Chief finds that adequate corrective measures have not been taken, he shall seal the equipment or premises until corrective measures are taken. The decision of the Chief to seal the equipment or premises may be appealed to the Appeals Board as set forth in Section 2.6, and such appeal shall stay the sealing until the Appeals Board rules on the matter. If the Appeals Board shall reverse the decision of the Chief, this ruling shall preclude the Chief from sealing the equipment. It shall be unlawful for any person to break a seal that has been duly affixed by the Chief or his authorized representative unless authorized in writing by the Chief to do so. If the decision of the Chief is upheld by the Appeals Board, it shall be subject to judicial review as provided in Section 2.6 of this ordinance.

(15.0)

ARTICLE XI

RIGHT OF ENTRY

Sec. 11.1 Right of Entry for Inspection.

Any person who in any manner interferes with the Chief, or his designated representatives in the performance of their duty, or who refuses entry at reasonable hours to any premises on which equipment covered by this ordinance is being operated, shall be in violation of this ordinance.

(2.0)

ARTICLE XII

PERSONS LIABLE

Sec. 12.1 Persons Liable.

All persons owning, operating, or in charge or control of any equipment or premises who shall cause, allow or participate in any violation of this ordinance shall be individually and collectively liable for any penalties imposed by this ordinance. Such liability shall apply to any person refusing to comply with or who shall assist in the violation of any of the provisions of this ordinance.

(2.0)

ARTICLE XIII

PARTY TO CLAIMS OR ACTIONS

Sec. 13.1 Claims or Actions.

All claims or actions filed by or against the Chief, Air Pollution Advisory Board, or the Board of Health shall be brought in the name of or filed against the City of Michigan City, Indiana, a municipal corporation.

(15.0)

ARTICLE XIV

PENALTIES FOR VIOLATIONS

Sec. 14.1 Penalties.

Any person who shall violate any of the provisions of this ordinance shall, upon conviction thereof, pay a fine of not less than ten dollars ($10.00) nor more than three humdred dollars ($300.00) for each violation, to which may be added imprisonment for a term not to exceed one hundred and eighty (180) days.

Each stack, open fire or other point from which an unlawful emission is discharged shall constitute a separate violation of this ordinance. A separate and distinct offense shall be regarded as committed each day on which such person shall continue or allow any such violation to exist after notification thereof by the Chief.

Any abatement provided for in Article VI shall be in addition to any penalties prescribed in this section.

(15.0)

ARTICLE XV

PROCEDURE FOR PERSONS NOTIFIED OF VIOLATIONS

Sec. 15.1 Violation Notice.

a. If the Chief believes that the emission from a specific source exceeds the limitations set forth in Article VI, he shall send by Certified Mail a Violation Notice to the person responsible.

b. Any person receiving a Violation Notice may, within ten days, submit reasons and supporting data to the Chief why he believes he was not in violation of Article VI. The Chief shall review the data submitted, affirm or withdraw the Violation Notice within fifteen (15) days, and inform in writing the person receiving said notice of his decision. If the person receiving the Violation Notice fails to reply within ten (10) days, the violation shall be considered affirmed.

c. Within ten (10) days of the receipt of a decision by the Chief affirming said Violation Notice, the person cited may appeal the decision to the Appeals Board. The Appeals Board shall, within thirty (30) days, review the reasons and supporting data, sustain or overrule the Violation Notice, and inform the Chief and the appellant, in writing, of its decision. Within ten (10) days of receipt of the Chief's decision, or of the decision of the Appeals Board, the person cited may ask that emission tests be performed to determine whether the emission limitations set forth in Article VI are in fact being exceeded. If the tests indicate that the emission exceeds the maximum allowable emission standards applicable under Article VI, the Violation Notice shall be considered substantiated. If the tests indicate that the emission is equal to or less than the standard applicable to the operation under Article VI, the Violation Notice shall be considered void.

(2.0)

ARTICLE XVI

SEVERABILITY

Sec. 16.1 Severability.

If any clause, sentence, paragraph or part of this ordinance, or the application thereof to any person, firm, corporation or circumstances, shall for any reason be adjudged by a Court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this ordinance and the application of such provision to other persons, firms, corporations or circumstances, but shall be restricted in its application to the clause, sentence, paragraph or part thereof directly involved in the matter in which such judgment have been rendered and to the person, firm, corporation or circumstances directly involved. It is hereby declared to be the legislative intent of the Council that this ordinance would have been adopted had such invalid provisions not been included.

(2.0)

ARTICLE XVII

REPEAL CLAUSE

Sec. 17.1 Repeal Clause.

All laws heretofore passed by the Common Council of the City of Michigan City, Indiana, dealing with air pollution, and specifically including Ordinance #791, entitled "An Ordinance Defining a Smoke Nuisance and providing a Penalty for the Violation Thereof," are hereby repealed.

TABLE I

ALLOWABLE RATE OF EMISSION

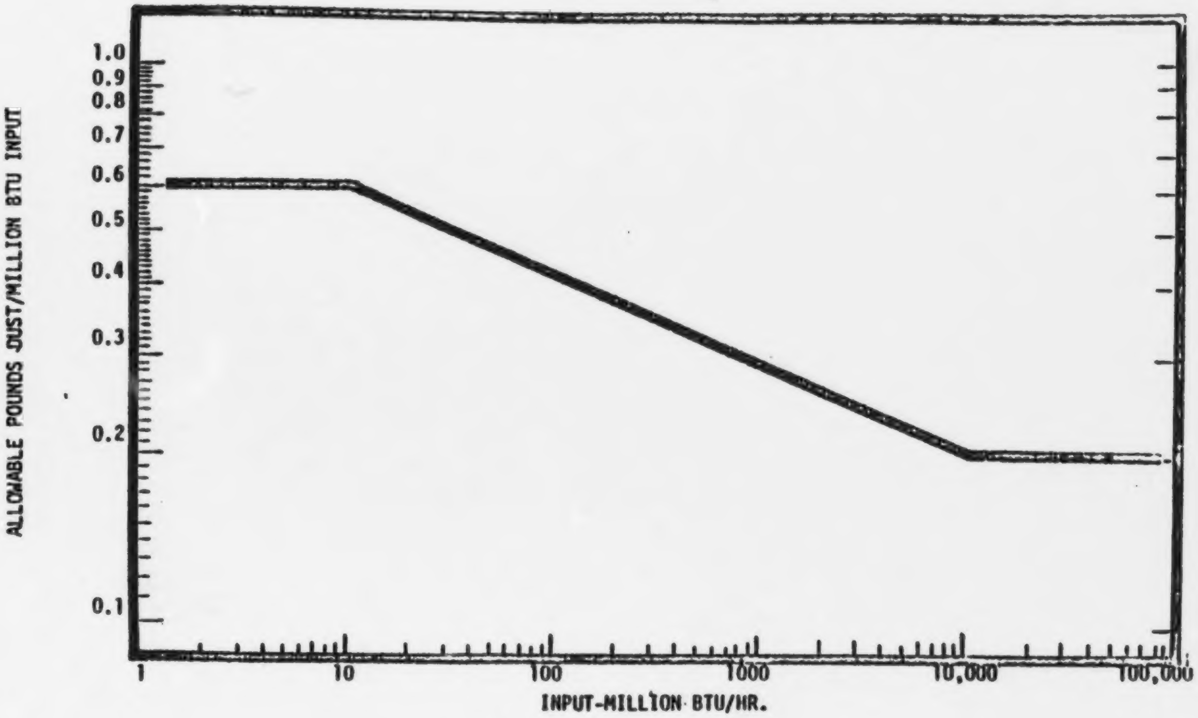
BASED ON PROCESS WEIGHT[a]

Process Weight Rate		Rate of Emission	Process Weight Rate		Rate of Emission
Lb/Hr	Tons/Hr	Lb/Hr	Lb/Hr	Tons/Hr	Lb/Hr
100	0.05	0.551	16,000	8.00	16.5
200	0.10	0.877	18,000	9.00	17.9
400	0.20	1.40	20,000	10.	19.2
600	0.30	1.83	30,000	15.	25.2
800	0.40	2.22	40,000	20.	30.5
1,000	0.50	2.58	50,000	25.	35.4
1,500	0.75	3.38	60,000	30.	40.0
2,000	1.00	4.10	70,000	35.	41.3
2,500	1.25	4.76	80,000	40.	42.5
3,000	1.50	5.38	90,000	45.	43.6
3,500	1.75	5.96	100,000	50.	44.6
4,000	2.00	6.52	120,000	60.	46.3
5,000	2.50	7.58	140,000	70.	47.8
6,000	3.00	8.56	160,000	80.	49.0
7,000	3.50	9.49	200,000	100.	51.2
8,000	4.00	10.4	1,000,000	500.	69.0
9,000	4.50	11.2	2,000,000	1,000.	77.6
10,000	5.00	12.0	6,000,000	3,000.	92.7
12,000	6.00	13.6			

[a] Interpolation of the data in this table for process weight rates up to 60,000 lb/hr shall be accomplished by use of the equation E=4.10 p0.67, and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lb/hr shall be accomplished by use of the equation;

E = 55.5 p0:11 - 40, where E = rate of emission in lb/hr and
P = process weight in tons/hr.

or, for those processes whose weight exceeds 200 tons/hour, the maximum allowable emission may exceed that shown in Table 1, provided that the concentration of particulate matter in the discharge gases to the atmosphere is less than 0.10 pounds per 1,000 pounds of gases.



PARTICULATE EMISSION LIMITS

FIGURE 1

WAYNE COUNTY AIR QUALITY CONTROL ORDINANCE

ORDINANCE TO REGULATE ATMOSPHERIC EMISSIONS AND CONTROL AIR QUALITY WITHIN JURISDICTION OF THE WAYNE COUNTY HEALTH DEPARTMENT, WAYNE COUNTY, INDIANA.

(2.0) ARTICLE 1

GENERAL PROVISIONS

(2.0) Sec. 1.1 - Short Title

This ordinance shall be known and cited as the Wayne County Air Quality Control Ordinance.

(2.0) Sec. 1.2 - Purpose

(A) The purpose of this ordinance is to achieve and maintain such levels of air quality as will protect human health and safety, and to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of people, promote the social and economic development of Wayne County, and facilitate the enjoyment of the natural attractions of this county.

(B) To these ends it is the purpose of this ordinance to provide a program of air pollution prevention, abatement and control.

(1.0) Sec. 1.3 - Definition of terms

The following terms as used in this ordinance shall, unless the context otherwise requires, have the following meanings:

(A) Control Equipment - Any equipment which has the function of controlling a process, fuel burning, or refuse burning and thus reduce the creation of, or the emission of air contaminants to the atmosphere, or both.

(B) Emission - The act of passing into the atmosphere of an air contaminant, or the material so passed to the atmosphere.

(C) Fuel burning Equipment - Any equipment, device or contrivance used for the burning of any fuel and all appurtenances thereto, including ducts, breaching, control equipment, fuel burning equipment, ash removal equipment, combustion controls, stacks, chimneys, etc., used for indirect heating in which the material being heated is not contacted by and adds no substance to the products of combustion. Such equipment typically includes that used for heating water to boiling, raising steam, or super heating steam, heating air as in a warm air furnace, furnishing process heat that is conducted through process vessel walls, and furnishing process heat indirectly through its transfer by fluids.

(D) Health Officer - The term "Health Officer" shall mean the Health Officer of Wayne County, State of Indiana, or his duly authorized representative.

(E) Opacity - State of a substance which renders it partially or wholly impervious to the rays of light. Opacity as used in this ordinance refers to the obscuration of an observer's view.

(F) Process Equipment - Any equipment, or device, or contrivance for changing any materials whatever or for storage or handling of any materials, and all appurtenances thereto, including ducts, stacks, vents, etc., the use or existence of which may cause any discharge of air contaminants into the outdoor atmosphere, but not including that equipment specifically defined as fuel burning equipment in this ordinance.

(G) Refuse Burning Equipment - Any incinerator, equipment, device, or contrivance used for the destruction of refuse, and/or other combustible wastes by burning, and all appurtenances thereto.

(H) Wayne County - The term "Wayne County" shall mean those rural and urban areas located in the State of Indiana which are under the jurisdiction of the Wayne County Health Officer.

(I) All other definitions as contained in the State of Indiana Air Pollution Control Regulations which pertain to Wayne County, State of Indiana, except the terms "Board" and "Technical Secretary" shall apply in the interpretation and enforcement of this ordinance.

(2.0) ARTICLE 2

ADMINISTRATIVE ORGANIZATION

(15.0) Sec. 2.1 - Administrative Organization and Enforcement

(A) This ordinance shall be effective territorially throughout Wayne County, State of Indiana.

(B) The administration and enforcement of this ordinance shall be conducted by the Wayne County Health Department, under the direction of the Health Officer.

(C) The Health Officer is hereby vested with the authority hereinafter provided to control air pollution in Wayne County.

(15.0) Sec. 2.2 - Powers and Duties of the Health Officer

(A) The Health Officer shall perform such duties as are required relative to air pollution control. He shallsupervise and control all matters and things pertaining to air pollution as provided in this ordinance.

(B) Determine by means of field studies and sampling the degree of air contamination and air pollution in Wayne County.

(C) Perform any and all acts which may be necessary for the successful prosecution of the purpose of this ordinance and such other acts as may be specifically enumerated herin.

(2.0)

ARTICLE 3

STANDARDS AND RECOMMENDED PRACTICES

Sec. 3.1 - Adopted Standards or Recommended Practices

Where reference is made in this ordinance to the standards or recommended practices of national technical societies, association, or other organizations, such information shall form and be considered an integral part of the ordinance in the same manner and extent as if fully reporduced therein. Not less than two copies of such standards or recommended practices shall be kept on file at all times in the office of the Auditor, Wayne County, State of Indiana, and shall be available for inspection by the public.

(3.0)

ARTICLE 4

INSTALLATION AND OPERATIONAL PERMITS

Sec. 4.1 - Installation permit

No person shall construct, install, reconstruct, or alter any process, fuel burning, refuse burning, or control equipment which will or might reasonably be expected to become a source of air contaminant, for use in Wayne County until an application, including not less than two sets of properly prepared plans and specifications of the process, fuel burning, refuse burning, or control equipment and structures or buildings used in connection therewith, have been filed by the person or his agent in the office of, and has been approved by, the Health Officer, and until an installation permit has been issued by the Health Officer for such construction, installation or alteration.

(A) The Health Officer shall not issue an installation permit until plans and specifications have been approved by the Indiana State Board of Health or a Registered Professional Engineer employed or Acting in a consulting capacity for the Wayne County Health Department.

(B) Information Required - The Health Officer may require that applications for installation permits and certificates of operation shall show the description, form and dimensions of the equipment; the means provided for admitting air for combustion; the composition of the fuel to be used; the kind and amount of raw materials to be processed; the number and location of each emission point, and any other reasonable and pertinent information that may be requested by the Health Officer.

(C) Emergency Repair - An emergency repair may be made prior to the application for an installation permit if serious consequences may result if the repair were deferred. When such repair is made, the person concerned shall notify the Health Officer on the first business day after the emergency occured and file an application for an installation permit if directed to do so by the Health Officer.

(D) Actions on Permit Applications - An application shall be acted on within thirty (30) days after it is filed in the office of the Health Officer. The Health Officer shall notify the person applying for the permit of approval or reasons for rejection of the application in writing. Upon approval of the application, the Health Officer shall issue a permit for the contruction, installation, or alteration of such process, fuel burining, refuse burning or control equipment.

(E) Applicability of the Permit - No construction, installation, or alteration, shall be made which is not in accordance with the plans, specifications, and other pertinent information upon which the installation permit was issued without the written approval of the Health Officer.

(F) Permit Violation - Failure to obtain an installation permit in accordance with this section shall be sufficient cause for the Health Officer to stop all work in connection with said equipment and he is hereby authorized to seal said equipment. No further work shall be done until the Health Officer has determined that the condition in question will be corrected and that the work will proceed in accordance with the terms of this ordinance.

(G) Time Limits on Permits - If construction, installation, reconstruction, or alteration is not completed within one(1) year of the date of the installation permit, the permit shall become void unless an extension of time is warranted and granted by the Health Officer.

Sec. 4.2 - Operational Permit

No person shall operate or cause to be operated any fuel burining, refuse burning, process, or control equipment or any equipment pertaining therto for which an installation permit was required or was issued under this ordinance until an inspection has been made and an operational permit has been issued by the Health Officer. The person responsible for the installation, construction, or alteration of any process, fuel burning, refuse burning, or control equipment for which an installation permit is required, shall notify the Health Officer when the work is completed and ready for final inspection. If the final inspection demonstrates to the satisfaction of the Health Officer, that the process fuel burning, refuse burning, or control equipment can be operated in compliance with this ordinance, an initial operational permit shall be issued by the Health Officer.

(A) Emission tests may be required by the Health Officer before the issuing of an initial operational permit. Failure to operate successfully under test within the limitations and requirements of this ordinance shall constitute sufficient grounds for ordering changes in the process, fuel burning, refuse burning, or control equipment or appurtenances before an initial operational permit can be granted.

(B) When the Health Officer refuses to issue an operational permit, the Health Officer is authorized to seal the process, fuel burning, refuse burning, or control equipment until the person required to procure the operational permit shall have complied with the provisions of this ordinance.

(C) No equipment shall be operated for any other purpose or in any other manner than that for which an operational permit has been issued unless otherwise authorized in writing by the Health Officer.

(D) Said operational permit shall be kept posted on or near the installation for which it was issued. The operational permit shall properly identify the equipment to which it pertains and shall specify the class of fuel, type of refuse, type of raw material used, if any, which have been successfully used in the operating test. The initial operational permit shall remain in force until terminated by any of the provisions of this ordinance.

(E) Operational permits shall also be required on all fuel burning, refuse burning, process or control equipment existing prior to the adoption of this ordinance. Application for permits must be submitted to the Health Officer within six months after the adoption of this ordinance.

(F) The Health Officer may require application for renewal of operational permits on those installations for which an installation permit was obtained, and on equipment existing prior to the adoption of this ordinance. Such operational permits shall not be required more often than once per year. The Health Officer is herby authorized to seal any equipment for which an operational permit is required and has not been issued. Installation permits and operational permits shall not be transferable.

Section 4.3 - Exceptions

Section 4.1 and 4.2 shall not apply to the following equipment, systems or situations unless required by the Health Officer.

(A) Confort heating equipment, boilers, water heaters, air heaters, and steam generators with a rated capacity of less than one million BTU per hour.

(B) Fuel burning equipment and incinerators used singly or jointly by occupants of dwellings containing four or less apartment units.

(C) Comfort ventilating systems.

(D) Unit space heaters.

(E) Vacuum cleaner systems used exclusively for commercial or residential housekeeping.

(F) Laboratory hoods which exhaust to outer air.

(G) Exhaust systems for controlling steam and heat.

(H) Fuel Burning equipment using as fuel only natural gas, or L.P. gas, or a mixed gas distributed by a utility in accordance with the rules of the Public Service Commission of the State of Indiana.

Sec. 4.4 - Registration of Emissions

The Health Officer - may require the written registration of points of emission of air contaminants, whether by stack, duct, flue, equipment, or by any other means when, in this opinion, such information is necessary for the conduct of the work of the department. A period of sixty (60) days shall be allowed for the filing of such registration. However, in cases of emergency, the Health Officer may designate any lesser time which he believes to be justified. The Health Officer is also authorized to require information from air contaminate sources at any time. Such information may include the location of the source of emission, size and height of outlets, processes employed, fuels used, nature of emissions, rate or duration of emissions, and such other information as the Health Officer shall prescribe and is relevant to air pollution.

Sec. 4.5 - Suspension and Revocation of Installation and Operational Permits

(A) Any permit may be temporarily suspended by the Health Officer without a hearing, for a period not to exceed thirty (30) days, upon violation by the holder of any of the terms of this ordinance.

(B) Any permit may be revoked after an oportunity for a hearing by the Health Officer upon serious or repeated violations.

Sec. 4.6 - Prosecution of Ordinance Violations

The issuance by the Health Officer of any installation permit or operational permit shall not be held to exempt the person to whom the permit was issued or who is in possession of the same, from prosecution for the emission of air contaminants prohibited by this ordinance.

(2.0)

ARTICLE 5

EMISSION LIMITATIONS AND PROHIBITIONS

(2.0) Sec 5.1 - State Regulations

All State of Indiana Air Pollution Control Regulations applicable to Wayne County are hereby incorporated in this ordinance. Such existing regulations as now provided, and any future regulations and any changes and amendments thereto which may hereafter be adopted or promulgated by the Air Pollution Control Board of the State Of Indiana (or other official state board or agency given this authority in the future) are by reference incorporated herein and made a part hereof. Such regulations shall form and be considered an integral part of this ordinance in the same manner and extent as if fully reproduced therein. Not less than two copies of such regulations shall be on file in the office of the Auditor, Wayne County, State of Indiana, for public inspection.

(A) EXCEPTIONS:

(1) The term "Board" as used in the State of Indiana Air Pollution Control Regulations shall be defined as the Health Officer of Wayne County, State of Indiana.

(2) Backyard incineration as exempted in the State of Indiana Air Pollution Control Regulation APC - 2 shall include only backyard incineration in unincorporated areas in Wayne County. Backyard incineration is thereby prohibited in all incorporated areas in Wayne County, State of Indiana.

(a) Any refuse burning equipment used for backyard incineration shall be multiple chamber or equivalent incinerators approved by the Health Officer.

(b) The Health Officer may impose any reasonable restrictions on open burning in unincorporated areas which are reasonably required to prevent the creation of a nuisance or hazard to health.

(c) Enforcement of provisions of Section 5.1 (A) (2) above, may be carried out by authorized law enforcement personnel in Wayne County, State of Indiana.

(3) No refuse burning equipment shall be used for the burning of refuse unless such equipment is a multiple chamber or equivalent incinerator. Existing refuse burning equipment which is not multiple chamber or equivalent, may be altered, modified or rebuilt as may be necessary to meet this requirement, or found by the Health Officer to be of equivalent efficiency.

(4.1) Sec. 5.2 - Ambient Particulate Emission

No person shall cause, suffer, allow or permit the emission of particulate matter from any single or multiple point source that will result in a maximum ground level ambient concentration which exceeds fifty (50) micrograms per cubic meter above the average ambient particulate level upwind from the single or multiple point source. These particulate levels shall not exceed fifty (50) micrograms per cubic meter of particulate matter during any one hour period.

(12.0) Sec. 5.3 - Motor Vehicles

No person shall operate, or cause to be operated, upon any street, highway, public place or private premises within the jurisdiction of the Wayne County Health Department, any engines of any motor vehicle, while stationary or moving, which emits from any source of emission whatsoever any air contaminant for a period or periods aggregating more than five minutes in any one hour which is:

(A) As dark or darker than that which is designated as No. 2 on the Ringelmann Chart, as published by the United States Bureau of Mines or:

(B) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subsection (A) of this section.

(50.7) Sec. 5.4 - Nuisance

(A) It shall constitute a nuisance for any person to permit or cause the emission of such quantities of air contaminants from whatever source in such place or manner as to endanger the health, comfort, or safety of any person or the public, or in such a manner as to cause or have a tendency to cause injury or damage to property or business.

(B) It shall be unlawful for any person to cause or permit the handling, transporting, or disposition of any substance or material which is likely to be scattered by the wind, or is susceptible to being wind borne, without taking reasonable precautions or measures, as determined by the Health Officer, to minimize atmospheric pollution.

(C) It shall be unlawful for any person to operate or maintain, or cause to be operated or maintained, any premises, open area, right of way, storage pile of materials, or vehicle, or construction, alteration, demolition, or wrecking operation, or any other enterprise, which involves any material or substance likely to be scattered by the wind, or susceptible to being windborne, without taking reasonable precautions or measures, as determined by the Health Officer, to minimize pollution.

(D) Nothing in any section of this ordinance relating to regulation of emission of air contaminants shall in any manner be construed as authorized or legalizing the erection or maintenance of a nuisance.

(8.0) Sec. 5.5 - Emergency Procedure

Any provision of this ordinance to the contrary notwithstanding, if the Health Officer finds that emission from the operation of one or more air contaminants sources is causing imminent danger to human health or safety, he may order the person or persons responsible for the operation or operations in question to reduce or discontinue emissions immediately and such an order shall fix a place and time not later than twenty four hours thereafter for a hearing to be held before the Wayne County Board of Health, Wayne County, State of Indiana. Not more than Twenty four hours after the commencement of such a hearing, and without adjournment thereof, the Board of Health shall affirm, modify or set aside the order of the Health Officer. Nothing in this article shall be construed to limit any power which the Health Officer or any other officer may have to declare an emergency and act on the basis of such declaration if such power is conferred by statute or constitutional provision, or inheres in the office.

(2.0) Sec. 5.6 - Circumvention

No person shall build, erect, install, or use any article, machine, equipment or other contrivance, the sole purpose of which is to conceal an emission without resulting in a reduction in the total release of air contaminants to the atmosphere.

(9.0). ARTICLE 6

SAMPLING AND TESTING

Sec. 6.1 - Right of Entry for Inspection

Any person who in any manner, hinders, obstructs, delays, resists, prevents, or in any manner interferes or attempts to interfere with the Health Officer, or law enforcement officers, in the performance of their duties, of shall refuse to permit the Health Officer or law enforcement officers to perform their duties by refusing their entrance at reasonable hours to any premises in which the provisions of this ordinance are being violated or are suspected of being violated, or refuse to permit the inspection or examination of such premises for the purpose of the enforcement of this ordinance, shall be subject to the fines and penalties hereinafter provided.

Sec. 6.2 - Authority to Conduct Tests

(A) The Health Officer is hereby authorized to conduct or require to be conducted, any test or tests of any new or existing process, fuel burning, refuse burning, or control equipment the operation of which, in his opinion, may result in emissions in excess of the limitations in this ordinance or when, in his judgement, there is evidence that emissions from any such equipment are exceeding any emission limitations prescribed in this ordinance. Upon notification by the Health Officer that emission tests are considered necessary, it shall be the responsibility of the person so notified to conduct the necessary tests at his expense. The person shall notify the Health Officer of the time and date of such testing. All tests so conducted shall be in a manner acceptable to the Health Officer, and a complete detailed test report of such tests shall be submitted to the Health Officer. The Health Officer may stipulate that a representative of his office be present during the conduct of such tests and may stipulate a reasonable time limit for the completion of such tests.

(B) Nothing in this section concerning tests conducted by and paid for by any person or his authorized agent shall be deemed to abridge the rights of the Health Officer to conduct separate or additional tests of any process, fuel burning, refuse burning, or control equipment.

Sec. 6.3 - Test Facilities and Access

It shall be the responsibility of the owner or operator of the operation tested to provide, at his expense, reasonable and necessary openings in the system or stack, and safe and easy access thereto, to permit technically valid samples and measurements to be taken. All new sources of air contaminants erected after the effective date of this ordinance may be required by the Health Officer to provide adequate openings in the system or stack, and safe and easy access thereto, to permit technically valid measurements and samples to be taken. If a person refuses to supply test openings, access scaffolding, and other pertinent facilities requested for the purpose of conducting valid emission tests by the Health Officer, the Health Officer shall notify such person to show cause on a day certain, not less than ten nor more than twenty days from the date of notice, why the equipment should not be sealed.

Sec. 6.4 - Test Costs

All emission tests conducted as a result of procedures outlined in Section 6.2 and the cost thereof, shall be borne by the owner of the operation tested.

(5.0) ARTICLE 7

VARIANCES

(2.0) Sec. 7.1 - Existing Conditions

(A) Variances granted by the State of Indiana, Air Pollution Control Board prior to the adoption of this ordinance shall be valid and not in conflict with this ordinance.

(B) Where emission sources in existence prior to the adoption of this ordinance do not meet the emission limitations that are hereafter incorporated herein, then a program and timetables to comply shall be submitted to the Health Officer by the owner of the equipment causing the emission. This program shall be submitted upon the request of and within such times as shall be fixed by the Health Officer and after said program has been approved by the Health Officer. The owner of the equipment causing the emission shall not be in violation of this ordinance so long as said program is observed. The Health Officer may require periodic reports consisting of information indicating the progress of these programs. If the program is not followed, the Health Officer may suspend the program and may take any enforcement action necessary, as authorized in this ordinance.

(5.0) Sec. 7.2 - Special Variances

The Health Officer shall have the authority to grant special variances from the rules and regulations of this ordinance. The only reason for granting such special variances is the following:

(A) The emissions occuring or proposed to occur do not endanger or tend to endanger human health or safety.

(B) There is no practical means known or available for the adequate prevention, abatement or control of the air pollution involved.

(14.0)

ARTICLE 8

CONFIDENTIALITY OF CERTAIN RECORDS

Sec. 8.1 - Confidentiality of Certain Records

Any records or other information furnished to the Health Officer concerning one or more air contaminant sources, which records or information, as certified by the owner or operator, relate to production or sales figures or to processes or production unique to the owner or operator or which tend to affect adversely the competitive position of such owner or operator, shall be only for the confidential use of the Health Officer in the administration of this ordinance, unless such owner or operator shall expressly agree to their publication or availability to the general public or unless the disclosure of such information if required for the prosecution of a violation of this ordinance or regulations thereunder. Nothing herein shall be construed to prevent the use of such records or information by the Health Officer in compiling or publishing analyses of summaries relating to the general condition of the outdoor atmosphere: provided that such analyses or summaries do not identify any owner or operator or reveal any information otherwise confidential under this Section.

(2.0)

ARTICLE 9

PERSONS LIABLE

Sec. 9.1 - Persons Liable

All persons owning, operating, or in charge or control of any equipment or premises who shall cause, suffer, allow, permit, or participate in any violation of this ordinance shall be individually and collectively liable for any penalties imposed by this ordinance. This liability shall include any person who shall refuse to comply with or who shall assist in the violation of any of the provisions of this ordinance.

(15.0) ARTICLE 10

PROCEDURES FOR VIOLATIONS

Sec. 10.1 - Warning Notice

If the Health Officer has reason to believe that an emission from any source violates any provision of this ordinance, he may issue a warning notice to the owner or operator of the source in question. The notice shall describe the alledged violation and, if appropriate, shall suggest what should be done to comply. There shall be no penalty associated with a warning notice. The Health Officer shall provide for follow up inspections of each source for which a warning notice has been issued to determine whether compliance has been achieved or if additional procedures of this article should be envoked.

Sec. 10.2 - Violation Notice

If the Health Officer has reason to believe that an emission from any source violates any provision of this ordinance, he may issue to the owner or operator of the source in question a violation notice. Any person who is issued a violation notice may, within fifteen days from the date of receipt of said notice, submit data to the Health Officer indicating reasons why he does not believe he was in voilation or present substantive evidence, including operating records to establish that a violation resulted from a malfunction or breakdown of equipment beyond the control of the person owning or operating such equipment. The Health Officer shall review the data submitted and within fifteen days affirm or withdraw the violation notice. The person receiving said notice shall review the data submitted and within fifteen days affirm or withdraw. If data is not submitted to the Health Officer within the time stipulated, the violation notice shall be considered still in force and affirmed. The recipient of a violation notice may ask, within ten days after the receipt of the Health Officers decision to affirm the violation notice that emission tests be performed to determine the extent of emissions from the operation which is the subject of the violation notice. If the emission tests indicate that a provision of this ordinance has been violated, the violation notice shall be considered substantiated. If the emission tests indicate that the source is not in violation the violation notice shall be considered void.

Sec. 10.3 - Sealing

If the Health Officer should determine that the owner of equipment, upon which a violation notice has been served, has not taken steps to comply therewith, he may notify said owner to show cause to the Health Officer, within ten (10) days, why the offending equipment shall not be sealed. The notice shall be delivered or sent, by registered or certified mail to the last address of the person to be notified or if the person or his whereabouts are unknown, then the notice shall be posted on or near the premises at which the violations have occured. If upon the hearing, the Health Officer finds that adequate corrective measures have not been taken, he shall seal the equipment until such time as corrective measures are taken. The seal may be a stamp, tag or other device that can be affixed to the equipment or premises causing the violation. It shall be unlawful for any person to operate such equipment to which a seal has been duly affixed by the Health Officer.

(15.0)

ARTICLE 11

PENALTIES FOR VIOLATIONS

Sec. 11.1 - Penalties

Any peron who violates any of the provisions of this ordinance shall upon conviction thereof, pay a fine of not less than ten dollars ($10.00) nor more than one thousand dollars ($1,000.00) for each violation, to which may be added imprisonment for a term not to exceed ninety (90) days.

The Wayne County Health Department shall be represented by the County Attorney or a special attorney employed by the local board of health.

Sec. 11.2 - Seperate Offense

Each day that a violation of any provision of this ordinance occurs shall constitute a separate offense; and an unlawful emission from each chimney, stack, open fire, or other source shall also constitute a separate offense. A separate and distinct offense shall be regarded as committed each day during which a person shall continue or permit any violation to exist after notification therof by the Health Officer.

(2.0)

ARTICLE 12

SEVERABILITY

Sec. 12.1 - Severability

If any clause, sentence, paragraph or part of this ordinance, or the application thereof to any person, firm, corporation or circumstance, shall for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgement shall not affect, impair or invalidate the remainder of this ordinance, and the application of such provision to other persons, firms, corporations, or circumstances, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgement shall have been rendered and to the person, firm, corporation or circumstances involved.

(2.0)

ARTICLE 13

REPEAL CLAUSE

Sec. 13.1 - Repeal Clause

All laws and parts of laws heretofore passed by the County Commissioners of Wayne County in conflict herewith, dealing with the problem of air pollution are hereby repealed.

(2.0)

ARTICLE 14

ADOPTION

Sec. 14.1 - Adoption

This ordinance shall be in full force and effect from and after its passage and adoption by the Board of Commissioners of Wayne County, State of Indiana.

FEDERALLY PROMULGATED
REGULATIONS

(10.0) 52.780 Review of new sources and modifications.

(d) Limited regulation for the review of new sources and modifications.

(1) This requirement is applicable to any coal burning equipment other than smokehouse generators, having a heat input of between 350,000 Btu per hour (38.2 Mg-cal/h) and 1,500,000 Btu per hour (378.0 MG cal/h), the construction of which was commenced after May 14,1973.

(2) No owner or operator shall commence construction or modification of any coal burning equipment subject to this regulation without first obtaining approval from the Administrator of the location and design of such source.

(i) Application for approval to construct or modify shall be made on forms furnished by the Administrator.

(ii) A separate application is required for each source.

(iii) Each application shall be signed by the applicant.

(iv) Each application shall be accompanied by site information, plans, descriptions, specifications, and drawings showing the design of the source, the nature and amount of emissions, and the manner in which it will be operated and controlled.

(v) Any additional information, plans, specifications, evidence, or documentation that the Administrator may require shall be furnished upon request.

(3) No approval to construct or modify will be granted unless the applicant shows to the satisfaction of the Administrator that:

(i) The source will operate without causing a violation of any local, State, or Federal regulation which is part of the applicable plan; and

(ii) The source will not prevent or interfere with attainment or maintenance of any national standard.

(4) (i) Within twenty (20) days after receipt of an application to construct, or any addition to such application, the Administrator shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purposes of paragraph (d) (4) (ii) of this section, shall be the date on which all required information is received by the Administrator.

(ii) Within thirty (30) days after receipt of a complete application, the Administrator shall:

(a) Make a preliminary determination whether the source should be approved, approved with conditions, or disapproved.

(b) Make available in at least one location in each region in which the proposed source would be constructed, a copy of all materials submitted by the owner or operator, a copy of the Administrator's preliminary determination and a copy or summary of other materials, if any, considered by the Administrator in making his preliminary determination; and

(c) Notify the public, by prominent advertisement in a newspaper of general circulation in each region in which the proposed source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the Administrator's preliminary determination on the approvability of the source.

(iii) A copy of the notice required pursuant to this subparagraph shall be sent to the applicant and to state and local air pollution control agencies, having cognizance over the location where the source will be situated.

(iv) Public comments submitted in writing within thirty (30) days after the date such information is made available shall be considered by the Administrator in making his final decision on the application. No later than ten (10) days after the close of the public comment period, the applicant may submit a written response to any comment submitted by the public. The Administrator shall consider the applicant's response in making his final decision. All comments shall be made available for public inspection in at least one location in the region in which the source would be located.

(v) The Administrator shall take final action on an application within thirty (30) days after the close of the public comment period. The Administrator shall notify the applicant in writing of his approval, conditional approval, or denial of the application, and shall set forth his reasons for conditional approval or denial. Such notification shall be made available for public inspection in at least one location in the region in which the source would be located.

(vi) The Administrator may extend each of the time periods specified in paragraph (d) (4) (ii), (iv), or (v) of this section by no more than 30 days, or such other period as agreed to by the applicant and the Administrator.

(4) (i) Within twenty (20) days after receipt of an application to construct, or any addition to such application, the Administrator shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph (d) (4) (ii) of this section, shall be the date on which all required information is received by the Administrator.

(ii) Within thirty (30) days after receipt of a complete application, the Administrator shall:

(a) Make a preliminary determination whether the source should be approved, approved with conditions, or disapproved.

(b) Make available in at least one location in each region in which the proposed source would be constructed, a copy of all materials submitted by the owner or operator, a copy of the Administrator's preliminary determination and a copy or summary of other materials, if any, considered by the Administrator in making his preliminary determination; and

(c) Notify the public, by prominent advertisement in a newspaper of general circulation in each region in which the proposed source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the Administrator's preliminary determination on the approvability of the source.

(iii) A copy of the notice required pursuant to this subparagraph shall be sent to the applicant and to state and local air pollution control agencies, having cognizance over the location where the source will be situated.

(iv) Public comments submitted in writing within thirty (30) days after the date such information is made available shall be considered by the Administrator in making his final decision on the application. No later than ten (10) days after the close of the public comment period, the applicant may submit a written response to any comment submitted by the public. The Administrator shall consider the applicant's response in making his final decision. All comments shall be made available for public inspection in at least one location in the region in which the source would be located.

(v) The Administrator shall take final action on an application within thirty (30) days after the close of the public comment period. The Administrator shall notify the applicant in writing of his approval, conditional approval, or denial of the application, and shall set forth his reasons for conditional approval or denial. Such notification shall be made available for public inspection in at least one location in the region in which the source would be located.

(vi) The Administrator may extend each of the time periods specified in paragraph (d) (4) (ii), (iv) or (v) of this section by no more than 30 days, or such other period as agreed to by the applicant and the Administrator.

(5) The Administrator may impose any reasonable conditions upon an approval, including conditions requiring the source to be provided with:

(i) Sampling ports of a size, number, and location as the Administrator may require,

(ii) Safe access to each port,

(iii) Instrumentation to monitor and record emission data, and

(iv) Any other sampling and testing facilities.

(6) The Administrator may cancel an approval if the construction is not begun within 2 years from the date of issuance, or if during the construction, work is suspended for 1 year.

(7) Any owner or operator subject to the provisions of this regulation shall furnish the Administrator written notification as follows:

(i) A notification of the anticipated date of initial startup of a source not more than 60 days or less than 30 days prior to such date.

(ii) A notification of the actual date of initial startup of a source within 15 days after such date.

(8) Within 60 days after achieving the maximum production rate at which the source will be operated but not later than 180 days after initial startup of such source, the owner or operator of such source shall conduct a performance test(s) in accordance with methods and under operating conditions approved by the Administrator and furnish the Administrator a written report of the results of such performance test.

(i) Such test shall be at the expense of the owner or operator.

(ii) The Administrator may monitor such test and may also conduct performance tests.

(iii) The owner or operator of a source shall provide the Administrator 15 days prior notice of the performance test to afford the Administrator the opportunity to have an observer present.

(iv) The Administrator may waive the requirement of performance tests if the owner or operator of a source has demonstrated by other means to the Administrator's satisfaction that the source is being operated in compliance with all local, State, and Federal regulations which are part of the applicable plan.

(9) (Reserved)

(10) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with all local, State, and Federal regulations which are part of the applicable plan.

(11) Any owner or operator who constructs, modifies, or operates a stationary source not in accordance with the application, as approved and conditioned by the Administrator, or any owner or operator of a stationary source subject to this paragraph who commences construction or modification without applying for and receiving approval hereunder, shall be subject to enforcement action under section 113 of the Act.

(e) The requirements of 51.18 of this chapter are not met because the State failed to submit a plan for review of new or modified indirect sources.

(f) Regulation for review of new or modified indirect sources. The provisions of 52.22 (b) are hereby incorporated by reference and made a part of the applicable implementation of the plan for the State of Indiana.

(g) Delegation of authority.

(1) The Administrator shall have the authority to delegate responsibility for implementing the procedures for conducting source review pursuant to this section in accordance with subparagraphs (2), (3), and (4) of this paragraph.

(2) Where the Administrator delegates the responsibility for implementing the procedures for conducting source review pursuant to this section to any Agency, other than a Regional Office of the Environmental Protection Agency, a copy of the notice pursuant to paragraph (d)(4)(iii) of this section shall be sent to the Administrator through the appropriate Regional Office.

(3) In accordance with Executive Order 11752, the Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be delegated, other than to a Regional Office of the Environmental Protection Agency, for new or modified sources which are owned or operated by the Federal government or for new or modified sources located on Federal lands; except that, with respect to the latter category, where new or modified sources are constructed or operated on Federal lands pursuant to leasing or other Federal agreements, the Federal Land Manager may at his discretion, to the extent permissible under applicable statutes and regulations, require the lessee or permittee to be subject to new source review requirements which have been delegated to a state or local agency pursuant to this paragraph.

(4) The Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be redelegated, other than to a Regional Office of the Environmental Protection Agency, for new or modified sources which are located in Indian reservations except where the State has assumed jurisdiction over such land under other laws, in which case the Administrator may delegate his authority to the States in accordance with paragraphs (g)(2), (3), and (4) of this section.

(37 FR 10863, May 31, 1972, as amended at 38 FR 12698, May 14, 1973; 39 FR 4663, Feb. 6, 1974; 39 FR 7281, Feb. 25, 1974; 40 FR 50270, Oct. 29, 1975)

(b) Regulation for Review of New or Modified Indirect Sources

(1) All terms used in this paragraph but not specifically defined below shall have the meaning given them in 52.01 of this chapter.

(i) The term "indirect source" means a facility, building, structure, or installation which attracts or may attract mobile source activity that results in emissions of a pollutant for which there is a national standard. Such indirect sources include, but are not limited to:

(a) Highways and roads.

(b) Parking facilities.

(c) Retail, commercial and industrial facilities.

(d) Recreation, amusement, sports and entertainment facilities.

(e) Airports.

(f) Office and Government buildings.

(g) Apartment and condominium buildings.

(h) Education facilities.

(ii) The term "Administrator" means the Administrator of the Environmental Protection Agency or his designated agent.

(iii) The term "associated parking area" means a parking facility or facilities owned and/or operated in conjunction with an indirect source.

(iv) The term "aircraft operation" means an aircraft take-off or landing.

(v) The phrase "to commence construction" means to engage in a continuous program of on-site construction including site clearance, grading, dredging, or land filling specifically designed for an indirect source in preparation for the fabrication, erection, or installation of the building components of the indirect source. For the purpose of this paragraph, interruptions resulting from acts of God, strikes, litigation, or other matters beyond the control of the owner shall be disregarded in determining whether a construction or modification program is continuous.

(vi) The phrase "to commence modification" means to engage in a continuous program of on-site modification, including site clearance, grading, dredging, or land filling in preparation for specific modification of the indirect source.

(vii) The term "highway section" means the development proposal of a highway of substantial length between logical termini (major crossroads, population centers, major traffic generators, or similar major highway control elements) as normally included in a single location study or multi-year highway improvement program as set forth in 23 CFR 770.201 (38 FR 31677).

(viii) The term "highway project" means all or a portion of a highway section which would result in a specific construction contract.

(ix) The term "Standard Metropolitan Statistical Area (SMSA)" means such areas as designated by the U.S. Bureau of the Budget in the following publication: "Standard Metropolitan Statistical Area," issued in 1967, with subsequent amendments.

(2) The requirements of this paragraph are applicable to the following:

(i) In an SMSA:

(a) Any new parking facility or other new indirect source with an associated parking area, which has a new parking capacity of 1,000 cars or more; or

(b) Any modified parking facility, or any modification of an associated parking area, which increases parking capacity by 500 cars or more; or

(c) Any new highway project with an anticipated average annual daily traffic volume of 20,000 or more vehicles per day within ten years of construction; or

(d) Any modified highway project which will increase average annual daily traffic volume by 10,000 or more vehicles per day within ten years after modification.

(ii) Outside an SMSA:

(a) Any new parking facility, or other new indirect source with an associated parking area, which has a parking capacity of 2,000 cars or more; or

(b) Any modified parking facility, or any modification of an associated parking area, which increases parking capacity by 1,000 cars or more.

(iii) Any airport, the construction or general modification program of which is expected to result in the following activity within ten years of construction or modification:

(a) New airport: 50,000 or more operations per year by regularly scheduled air carriers, or use by 1,600,000 or more passengers per year.

(b) Modified airport: Increase of 50,000 or more operations per year by regularly scheduled air carriers over the existing volume of operations, or increase of 1,600,000 or more passengers per year.

(iv) Where an indirect source is constructed or modified in increments which individually are not subject to review under this paragraph, and which are not part of a program of construction or modification in planned incremental phases approved by the Administrator, all such increments commenced after December 31, 1974, or after the latest approval hereunder, whichever date is most recent, shall be added together for determining the applicability of this paragraph.

(3) No owner or operator of an indirect source subject to this paragraph shall commence construction or modification of such source after December 31, 1974, without first obtaining approval from the Administrator. Application for approval to construct or modify shall be by means prescribed by the Administrator, and shall include a copy of any draft or final environmental impact statement which has been prepared pursuant to the National Environmental Policy Act (42 U.S.C. 4321). If not included in such environmental impact statement, the Administrator may request the following information:

(i) For all indirect sources subject to this paragraph, other than highway projects:

(a) The name and address of the applicant.

(b) A map showing the location of the site of indirect source and the topography of the area.

(c) A description of the proposed use of the site, including the normal hours of operation of the facility, and the general types of activities to be operated therein.

- (d) A site plan showing the location of associated parking areas, points of motor vehicle ingress and egress to and from the site and its associated parking areas, and the location and height of buildings on the site.
- (e) An identification of the principal roads, highways, and intersections that will be used by motor vehicles moving to or from the indirect source.
- (f) An estimate, as of the first year after the date the indirect source will be substantially complete and operational, of the average daily traffic volumes, maximum traffic volumes for one-hour and eight-hour periods, and vehicle capacities of the principal roads, highways, and intersections identified pursuant to subdivision (i) (e) of this subparagraph located within one-fourth mile of all boundaries of the site.
- (g) Availability of existing and projected mass transit to service the site.
- (h) Where approval is sought for indirect sources to be constructed in incremental phases, the information required by this subparagraph (3) shall be submitted for each phase of the construction project.
- (i) Any additional information or documentation that the Administrator deems necessary to determine the air quality impact of the indirect source, including the submission of measured air quality data at the proposed site prior to construction or modification.

(ii) For airports:

- (a) An estimate of the average number and maximum number of aircraft operations per day by type of aircraft during the first, fifth and tenth years after the date of expected completion.
- (b) A description of the commercial, industrial, residential and other development that the applicant expects will occur within three miles of the perimeter of the airport within the first five and the first ten years after the date of expected completion.
- (c) Expected passenger loadings at the airport.
- (d) The information required under subdivisions (i) (a) through (i) of this subparagraph.

(iii) For highway projects:

(a) A description of the average and maximum traffic volumes for one, eight, and 24-hour time periods expected within 10 years of date of expected completion.

(b) An estimate of vehicle speeds for average and maximum traffic volume conditions and the vehicle capacity of the highway project.

(c) A map showing the location of the highway project, including the location of buildings along the right-of-way.

(d) A description of the general features of the highway project and associated right-of-way, including the approximate height of buildings adjacent to the highway.

(e) Any additional information or documentation that the Administrator deems necessary to determine the air quality impact of the indirect source, including the submission of measured air quality data at the proposed site prior to construction or modification.

(iv) For indirect sources other than airports and those highway projects subject to the provisions of paragraph (b) (6) (iii) of this section, the air quality monitoring requirements of paragraph (b) (3) (i) (i) of this section shall be limited to carbon monoxide, and shall be conducted for a period of not more than 14 days.

(4) (i) For indirect sources other than highway projects and airports, the Administrator shall not approve an application to construct or modify if he determines that the indirect source will:

(a) Cause a violation of the control strategy of any applicable state implementation plan; or

(b) Cause or exacerbate a violation of the national standards for carbon monoxide in any region or portion thereof.

(ii) The Administrator shall make the determination pursuant to paragraph (b) (4) (i) (b) of this section by evaluating the anticipated concentration of carbon monoxide at reasonable receptor or exposure sites which will be affected by the mobile source activity expected to be attracted by the indirect source. Such determination may be made by using traffic flow characteristic guidelines published by the Environmental Protection Agency which relate traffic demand and capacity considerations to ambient carbon monoxide impact, by use of appropriate atmospheric diffusion models (examples of which are referenced in Appendix O to Part 51 of this chapter), and/or by any other reliable analytic method. The applicant may (but need not) submit with his application, the results of an appropriate diffusion model and/or any other reliable analytic method, along with the technical data and information supporting such results. Any such results and supporting data submitted by the applicant shall be considered by the Administrator in making his determination pursuant to paragraph (b) (4) (i) (b) of this section.

(5) (i) For airports subject to this paragraph, the Administrator shall base his decision on the approval or disapproval of an application on the considerations to be published as an Appendix to this Part.

(ii) For highway projects and parking facilities specified under paragraph (b) (2) of this section which are associated with airports, the requirements and procedures specified in paragraphs (b) (4) and (6) (i) and (ii) of this section shall be met.

(6) (i) For all highway projects subject to this paragraph, the Administrator shall not approve an application to construct or modify if he determines that the indirect source will:

(a) Cause a violation of the control strategy of any applicable state implementation plan; or

(b) Cause or exacerbate a violation of the national standards for carbon monoxide in any region or portion thereof.

(ii) The determination pursuant to paragraph (b) (6) (i) (b) of this section shall be made by evaluating the anticipated concentration of carbon monoxide at reasonable receptor or exposure sites which will be affected by the mobile source activity expected on the highway for the ten year period following the expected date of completion according to the procedures specified in paragraph (b) (4) (ii) of this section.

(iii) For new highway projects subject to this paragraph with an anticipated average daily traffic volume of 50,000 or more vehicles within ten years of construction, or modifications to highway projects subject to this paragraph which will increase average daily traffic volume by 25,000 or more vehicles within ten years after modification, the Administrator's decision on the approval or disapproval of an application shall be based on the considerations to be published as an Appendix to this Part in addition to the requirements of paragraph (b) (6) (i) of this section.

(7) The determination of the air quality impact of a proposed indirect source "at reasonable receptor or exposure sites", shall mean such locations where people might reasonably be exposed for time periods consistent with the national ambient air quality standards for the pollutants specified for analysis pursuant to this paragraph.

(8) (i) Within 20 days after receipt of an application or addition thereto, the Administrator shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph (b) (8) (ii) of this section shall be the date on which all required information is received by the Administrator.

(ii) Within 30 days after receipt of a complete application, the Administrator shall:

(a) Make a preliminary determination whether the indirect source should be approved, approved with conditions in accordance with paragraphs (b) (9) or (10) of this section, or disapproved.

(b) Make available in at least one location in each region in which the proposed indirect source would be constructed, a copy of all materials submitted by the owner or operator, a copy of the Administrator's preliminary determination, and a copy or summary of other materials, if any, considered by the Administrator in making his preliminary determination; and

(c) Notify the public, by prominent advertisement in a newspaper of general circulation in each region in which the proposed indirect source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the Administrator's preliminary determination on the approvability of the indirect source.

(iii) A copy of the notice required pursuant to this subparagraph shall be sent to the applicant and to officials and agencies having cognizance over the location where the indirect source will be situated, as follows: State and local air pollution control agencies, the chief executive of the city and county; any comprehensive regional land use planning agency; and for highways, any local board or committee charged with responsibility for activities in the conduct of the urban transportation planning process (3-C process) pursuant to 23 U.S.C. 134.

(iv) Public comments submitted in writing within 30 days after the date such information is made available shall be considered by the Administrator in making his final decision on the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Administrator shall consider the applicant's response in making his final decision. All comments shall be made available for public inspection in at least one location in the region in which the indirect source would be located.

(v) The Administrator shall take final action on an application within 30 days after the close of the public comment period. The Administrator shall notify the applicant in writing of his approval, conditional approval, or denial of the application, and shall set forth his reasons for conditional approval or denial. Such notification shall be made available for public inspection in at least one location in the region in which the indirect source would be located.

(vi) The Administrator may extend each of the time periods specified in paragraphs (b) (8) (ii), (iv), or (v) of this section by no more than 30 days, or such other period as agreed to by the applicant and the Administrator.

(9) (i) Whenever an indirect source as proposed by an owner or operator's application would not be permitted to be constructed for failure to meet the tests set forth pursuant to paragraphs (b) (4) (i), (b) (5) (i), or (b) (6) (i) and (iii) of this section, the Administrator may impose reasonable conditions on an approval related to the air quality aspects of the proposed indirect source so that such source, if constructed or modified in accordance with such conditions, could meet the tests set forth pursuant to paragraphs (b) (4) (i), (b) (5) (i), or (b) (6) (i) and (iii) of this section. Such conditions may include, but not be limited to:

(a) Binding commitments to roadway improvements or additional mass transit facilities to serve the indirect source secured by the owner or operator from governmental agencies having jurisdiction thereof;

(b) Binding commitments by the owner or operator to specific programs for mass transit incentives for employees and patrons of the source; and

(c) Binding commitments by the owner or operator to construct, modify, or operate the indirect source in such a manner as may be necessary to achieve the traffic flow characteristics published by the Environmental Protection Agency pursuant to paragraph (b) (4) (ii) of this section.

(ii) The Administrator may specify that any items of information provided in an application for approval related to the operation of an indirect source which may affect the source's air quality impact shall be considered permit conditions.

(10) Notwithstanding the provisions relating to modified indirect sources contained in paragraph (b) (2) of this section, the Administrator may condition any approval by reducing the extent to which the indirect source may be further modified without resubmission for approval under this paragraph.

(11) Any owner or operator who fails to construct an indirect source in accordance with the application as approved by the Administrator; any owner or operator who fails to construct and operate an indirect source in accordance with conditions imposed by the Administrator under paragraph (b) (9) of this section; any owner or operator who modifies an indirect source in violation of conditions imposed by the Administrator under paragraph (b) (10) of this section; or any owner or operator of an indirect source subject to this paragraph who commences construction or modification thereof after December 31, 1974, without applying for and receiving approval hereunder, shall be subject to the penalties specified under section 113 of the Act and shall be considered in violation of an emission standard or limitation under section 304 of the Act. Subsequent modification to an approved indirect source may be made without applying for permission pursuant to this paragraph only where such modification would not violate any condition imposed pursuant to paragraphs (b) (9) and (10) of this section and would not be subject to the modification criteria set forth in paragraph (b) (2) of this section.

(12) Approval to construct or modify shall become invalid if construction or modification is not commenced within 24 months after receipt of such approval. The Administrator may extend such time period upon satisfactory showing that an extension is justified. The applicant may apply for such an extension at the time of initial application or at any time thereafter.

(13) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State implementation plan.

(14) Where the Administrator delegates the responsibility for implementing the procedures for conducting indirect source review pursuant to this paragraph to any agency, other than a regional office of the Environmental Protection Agency, the following provisions shall apply:

(i) Where the agency designated is not an air pollution control agency, such agency shall consult the appropriate State or local air pollution control agency prior to making any determination required by paragraphs (b) (4), (5), or (6) of this section. Similarly, where the agency designated does not have continuing responsibilities for land use planning, such agency shall consult with the appropriate State or local land use and transportation planning agency prior to making any determination required by paragraph (b) (9) of this section.

(ii) The Administrator of the Environmental Protection Agency shall conduct the indirect source review pursuant to this paragraph for any indirect source owned or operated by the United States Government.

(iii) A copy of the notice required pursuant to paragraph (b) (8) (ii) (c) of this section shall be sent to the Administrator through the appropriate Regional Office.

(15) In any area in which a "management of parking supply" regulation which has been promulgated by the Administrator is in effect, indirect sources which are subject to review under the terms of such a regulation shall not be required to seek review under this paragraph but instead shall be required to seek review pursuant to such management of parking supply regulation. For purposes of this paragraph, a "management of parking supply" regulation shall be any regulation promulgated by the Administrator as part of a transportation control plan pursuant to the Clean Air Act which requires that any new or modified facility containing a given number of parking spaces shall receive a permit or other prior approval, issuance of which is to be conditioned on air quality considerations.

(16) Notwithstanding any of the foregoing provisions to the contrary, the operation of this paragraph is hereby suspended pending further notice. No facility which commences construction prior to the expiration of the sixth month after the operation of this paragraph is reinstated (as to that type of facility) shall be subject to this paragraph.

(37 FR 10846, May 31, 1972 as amended at 40 FR 28065, July 3, 1975; 40 FR 40160, Sept. 2, 1975)

(12.0) 52.784 Transportation and land use controls.

(a) To complete the requirements of 51.11 (b) and 51.14 of this chapter, the Governor of Indiana must submit to the Administrator:

(1) No later than April 15, 1973, transportation and/or land use control strategies and a demonstration that said strategies, along with Indiana's presently adopted stationary source emission limitations for carbon monoxide and hydrocarbons and the Federal Motor Vehicle Control Program, will attain and maintain the national standards for carbon monoxide and photochemical oxidants (hydrocarbons) in the Metropolitan Indianapolis Intrastate Region by May 31, 1975. By such date (April 15, 1973), the State also must submit a detailed timetable for implementing the legislative authority, regulations, and administrative policies required for carrying out the transportation and/or land use control strategies by May 31, 1975.

(2) No later than July 30, 1973, the legislative authority that is needed for carrying out such strategies.

(3) No later than December 30, 1973, the necessary adopted regulations and administrative policies needed to implement such strategies.

(12.0) 52.786 Inspection and maintenance program.

Section 52.786 is revised to read as follows:

52.786 Inspection and Maintenance Program.

(a) Definitions:

(1) "Inspection and maintenance program" means a program to reduce emissions from in-use vehicles through identifying vehicles that need emission control related maintenance and requiring that such maintenance be performed.

(2) "Light-duty vehicle" means a motor vehicle rated a 6,000 lb. GVW (gross vehicle weight) or less.

(3) All other terms used in this section that are defined in Part 51, Appendix N of this chapter, are used herein with the meanings so defined.

(b) This regulation is applicable in the County of Marion, Indiana (including all cities, towns and municipal corporations therein).

(c) The State of Indiana shall establish and cause the implementation of an inspection and maintenance program applicable to all gasoline-powered light-duty vehicles which are registered in Marion County. Such program shall conform with this 52.786. The Consolidated City of Indianapolis, the County of Marion, and other municipalities within the County of Marion, shall take all legislative, executive, or other action necessary to establish and implement the program required by this regulation.

(d) Not later than April 1, 1975, the State of Indiana, the County of Marion and the Consolidated City of Indianapolis shall jointly submit to the Administrator, for his approval, legally adopted legislation and/or regulations establishing the regulatory scheme for the inspection/maintenance program required by paragraph (c) of this section. The legislation and/or regulations shall include:

(1) Provisions requiring inspection of all light-duty motor vehicles subject to the inspection program required by paragraph (c) of this section at periodic intervals no more than 1 year apart by means of an idle test. Any class or category of vehicles that are found to be rarely used on public streets and highways (such as classic or antique vehicles) may be exempted.

(2) Provisions for regulatory criteria that are consistent with achieving an eleven percent reduction of hydrocarbon emissions from light-duty vehicles.

(3) Provisions ensuring that failed vehicles receive, within 30 days, the maintenance necessary to achieve compliance with the inspection standards. These provisions shall impose standards against owners of non-complying vehicles, require retest of failed vehicles following maintenance, require a suitable distinctive tag or sticker for display on complying vehicles, and include such other measures as are necessary or appropriate.

(4) Provisions establishing a certification program to ensure that testing stations performing the required tests have the necessary equipment and knowledgeable operators to perform the tests satisfactorily, imposing sanctions against non-complying testing stations, and containing such other measures as necessary or appropriate to a testing program.

(5) Provisions prohibiting vehicles from being intentionally readjusted or modified subsequent to the inspection and/or maintenance in such a way as would cause them no longer to comply with the inspection standards. These may include authorization of spot checks of idle adjustments or of a suitable type of physical seal or tag on vehicles. These provisions shall include appropriate penalties for violation by any person.

(6) Designation of agency or agencies responsible for conducting, overseeing, and enforcing the inspection/maintenance program. Private parties may be designated to conduct parts of the program to certify compliance.

(e) After July 1, 1976, the State of Indiana, County of Marion, the Consolidated City of Indianapolis, and other municipalities in Marion County shall not allow the operation on streets, roads, or highways under their ownership or control of any light-duty motor vehicle subject to the inspection program established pursuant to paragraph (c) of this section that does not comply with the applicable standards and procedures adopted in accordance with paragraph (d) of this section.

(f) After July 1, 1976, no person shall operate or allow the operation of any motor vehicle subject to the inspection program established pursuant to paragraph (c) of this section that does not comply with the applicable standards and procedures adopted in accordance with paragraph (d) of this section.

(g) No later than October 1, 1974, the State of Indiana, County of Marion, and the Consolidated City of Indianapolis shall jointly submit to the Administrator, for his approval, a detailed compliance schedule showing the steps they will take to establish, operate and enforce the inspection program required by paragraph (c) of this section including:

(1) A detailed description of the inspection program required by paragraph (c) (including a description of the way in which the program will be established, operated, and enforced and the respective responsibilities of the State, county, and municipalities for such tasks).

(2) A description of the legal authority for establishing and enforcing the inspection/maintenance program, including the text of proposed or adopted legislation and regulations.

(3) Specific dates (day, month, and year) by which various steps to implement the inspection/maintenance system will be completed, such steps to include, at a minimum, the following: submitting final plans and specifications for the system to the Administrator for this approval (this date to be no later than February 1, 1975), ordering necessary equipment (this date to be no later than April 15, 1975), commencement of on-site construction and/or installation, and system operational (this date to be no later than July 1, 1975).

(4) An identification of the sources and amounts of funds necessary to implement the system together with written assurances from the chief executive officers of the State, city, and county that they will seek such necessary funding from the appropriate legislative bodies.

(5) Other provisions necessary or appropriate to carry out the program.

(12.0) 52.787 Gasoline transfer vapor control.

4. Section 52.787 is added to read as follows:

52.787 Gasoline transfer vapor control.

(a) "Gasoline" means any petroleum distillate having a Reid vapor pressure of 4 pounds or greater.

(b) This section is applicable in the County of Marion, Indiana (including all cities, towns and municipal corporations therein).

(c) No person shall transfer or permit the transfer of gasoline from any delivery vessel into any stationary source container with a capacity greater than 250 gallons unless such container is equipped with a submerged fill pipe and unless the displaced vapors from the storage container are processed by a control system that prevents release to the atmosphere of no less than 90 percent by weight of organic compounds in said vapors displaced from the stationary storage container location. The control system shall include one or more of the following:

(1) A vapor-tight return line from the storage container to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline can be transferred into the container. If a "vapor-balance return" system is used to meet the requirements of this section, the system shall be so constructed as to be readily adapted to retrofit with an adsorption system, refrigeration-condensation system or equivalent system connected to the stationary storage container.

(2) Refrigeration-condensation system or adsorption system connected to the stationary storage container.

(3) An equivalent system, approved by the Administrator or his designee, designed to recover or eliminate no less than 90 percent by weight of the organic compounds in the displaced vapor.

(d) No person shall own or operate a delivery vessel containing gasoline unless the delivery vessel is so designed and maintained as to be vapor-tight at all times. This paragraph (d) shall not apply to delivery vessels in transit through Marion County which neither are filled nor deliver gasoline therein, nor shall this paragraph (d) be construed to prohibit safety-valves on other devices required by governmental safety regulations. Delivery vessels which are filled in Marion County but do not deliver in Marion County may be controlled only for filling.

(e) No person shall own or operate a facility for the filling of delivery vessels with gasoline unless the facility is equipped with a control system, which can recover or eliminate at least 90 percent by weight of the organic compounds in the vapors displaced from the delivery vessel during refilling. Facilities which have a daily throughput of 20,000 gallons or less are required to have a vapor recovery system in operation no later than May 31, 1977. Delivery vessels and storage containers served exclusively by facilities required to have a vapor recovery system in operation no later than May 31, 1977, also will be required to meet the provisions of this section no later than May 31, 1977.

(f) After March 1, 1976, no person shall intentionally release gasoline vapors from a delivery vessel, except to a control system that can recover or eliminate at least 90 percent by weight of organic compounds in the vapors released.

(g) The provisions of paragraph (c) of this section shall not apply to the following:

(1) Stationary containers having a capacity less than 550 gallons used exclusively for the fueling of farming equipment.

(2) Any stationary container having a capacity less than 2,000 gallons installed prior to promulgation of this paragraph.

(3) Transfer made to storage tanks equipped with floating roofs or their equivalent.

(4) Gasoline storage compartments of 1,000 gallons or less in gasoline delivery vessels in use on the promulgated date of this regulation will not be required to be retrofitted with a vapor return system until January 1, 1977.

(h) The operation of a source, otherwise, subject to paragraphs (c), (d), or (e) of this section, shall not be a violation of paragraphs (c), (d), or (e), respectively, if the following acts shall be completed with respect to such source before the following dates:

(1) October 1, 1974 - The owner of the source or his designee shall submit to the Administrator, a final control plan, which describes at a minimum the steps that will be taken by the source to achieve compliance with the applicable provisions of paragraphs (c), (d), and (e) of this section.

(2) March 1, 1975 - Negotiate and sign all necessary contracts for control systems, or issue orders for the purchase of component parts to accomplish emission control.

(3) May 1, 1975 - Initiate on-site construction or installation of control system equipment.

(4) February 1, 1976 - Complete on-site construction or installation of control system equipment.

(5) March 1, 1976 - Achieve final compliance with the applicable provisions of paragraph (c), (d), and (e) of this section.

(6) Any owner of a source subject to the compliance schedule in this paragraph shall certify to the Administrator, within 5 days after the deadline for each increment of progress, whether or not the required increment of progress has been met.

(i) As an alternative to compliance with the schedule under paragraph (h) of this section:

(1) The owner of a source which is in compliance with the provisions of paragraphs (c), (d), or (e) of this section, shall certify such compliance to the Administrator by October 1, 1974. The Administrator may request whatever supporting information he considers necessary for proper certification.

(2) A source for which a compliance schedule is adopted by the State and approved by the Administrator may operate in conformity with such compliance schedule.

(3) The owner of a source may submit to the Administrator, by October 1, 1974, a proposed alternative compliance schedule. No such schedule may provide for compliance after March 1, 1976. Until promulgated by the Administrator, such source shall conform with applicable portions of paragraphs (c), (d), (e), or (h) of this section. Upon promulgation of the compliance schedule by the Administrator, no person shall own or operate the source except in conformity with the promulgated schedule.

(j) Nothing in this section shall preclude the Administrator from promulgating a separate schedule for any source to which the application of the compliance schedule in paragraph (h) of this section fails to satisfy the requirements of 51.15 (b) and (c) of this chapter.

(k) Any new container, facility, or vessel subject to this regulation that is placed in operation after October 1, 1974, shall within 30 days of commencing operation submit a compliance schedule in conformity with paragraph (i) of this section and shall otherwise comply with this section. Any facility subject to this regulation that is placed in operation after March 1, 1976, shall comply with the applicable requirements of this section immediately upon commencing operation.

Additional technical and economic information related to this preamble is contained in the "Technical Support Document for the Indianapolis Marion County Transportation Control Plan." This document, along with the State Transportation Plan proposal submitted October 19, 1973 is available for inspection at the Environmental Protection Agency, Region V, One North Wacker Drive, Chicago, Illinois 60606.

(17.0) 52.793 Prevention of Significant Deterioration

(b) Definitions. For the purposes of this section:

(1) "Facility" means an identifiable piece of process equipment. A stationary source is composed of one or more pollutant-emitting facilities.

(2) The phrase "Administrator" means the Administrator of the Environmental Protection Agency or his designated representative.

(3) The phrase "Federal Land Manager" means the head, or his designated representative, of any Department or Agency of the Federal Government which administers federally-owned land, including public domain lands.

(4) The phrase "Indian Reservation" means any federally-recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

(5) The phrase "Indian Governing Body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

(6) "Construction" means fabrication, erection or installation of a stationary source.

(7) "Commenced" means that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

(c) Area designation and deterioration increment

(1) The provisions of this paragraph have been incorporated by reference into the applicable implementation plans for various States, as provided in Subparts B through DDD of this part. Where this paragraph is so incorporated, the provisions shall also be applicable to all lands owned by the Federal Government and Indian Reservations located in such State. The provisions of this paragraph do not apply in those counties or other functionally equivalent areas that pervasively exceeded any national ambient air quality standards during 1974 for sulfur dioxide or particulate matter and then only with respect to such pollutants. States may notify the Administrator at any time of those areas which exceeded the national standards during 1974 and therefore are exempt from the requirements of this paragraph.

(2) (i) For purposes of this paragraph, areas designated as Class I or II shall be limited to the following increases in pollutant concentration occurring since January 1, 1975:

Area Designations

Pollutant	Class I ($\mu g/m^3$)	Class II ($\mu g/m^3$)
Particulate matter:		
Annual geometric mean	5	10
24-hr maximum	10	30
Sulfur dioxide:		
Annual arithmetic mean	2	15
24-hr maximum	5	100
3-hr maximum	25	700

(ii) For purposes of this paragraph, areas designated as Class III shall be limited to concentrations of particulate matter and sulfur dioxide no greater than the national ambient air quality standards.

(iii) The air quality impact of sources granted approval to construct or modify prior to January 1, 1975 (pursuant to the approved new source review procedures in the plan) but not yet operating prior to January 1, 1975, shall not be counted against the air quality increments specified in paragraph (c) (2) (i) of this section.

(3) (i) All areas are designated Class II as of the effective date of this paragraph. Redesignation may be proposed by the respective States, Federal Land Manager, or Indian Governing Bodies, as provided below, subject to approval by the Administrator.

(ii) The State may submit to the Administrator a proposal to redesignate areas of the State Class I, Class II, or Class III, provided that:

(a) At least one public hearing is held in or near the area affected and this public hearing is held in accordance with procedures established in 51.4 of this chapter, and

(b) Other States, Indian Governing Bodies, and Federal Land Managers whose lands may be affected by the proposed redesignation are notified at least 30 days prior to the public hearing, and

(c) A discussion of the reasons for the proposed redesignation is available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing contains appropriate notification of the availability of such discussion, and

(d) The proposed redesignation is based on the record of the State's hearing, which must reflect the basis for the proposed redesignation, including consideration of (1) growth anticipated in the area, (2) the social, environmental, and economic effects of such redesignation upon the area being proposed for redesignation and upon other areas and States, and (3) any impacts of such proposed redesignation upon regional or national interests.

(e) The redesignation is proposed after consultation with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation.

(iii) Except as provided in paragraph (c) (3) (iv) of this section, a State in which lands owned by the Federal Government are located may submit to the Administrator a proposal to redesignate such lands Class I, Class II, or Class III in accordance with subdivision (ii) of this subparagraph provided that:

(a) The redesignation is consistent with adjacent State and privately owned land, and

(b) Such redesignation is proposed after consultation with the Federal Land Manager.

(iv) Notwithstanding subdivision (iii) of this subparagraph, the Federal Land Manager may submit to the Administrator a proposal to redesignate any Federal lands to a more restrictive designation than would otherwise be applicable provided that:

(a) The Federal Land Manager follows procedures equivalent to those required of States under paragraph (c) (3) (ii) and,

(b) Such redesignation is proposed after consultation with the State(s) in which the Federal Land is located or which border the Federal Land.

(v) Nothing in this section is intended to convey authority to the States over Indian Reservations where States have not assumed such authority under other laws nor is it intended to deny jurisdiction which States have assumed under other laws. Where a State has not assumed jurisdiction over an Indian Reservation the appropriate Indian Governing Body may submit to the Administrator a proposal to redesignate areas Class I, Class II, or Class III, provided that:

(a) The Indian Governing Body follows procedures equivalent to those required of States under paragraph (c) (3) (ii) and,

(b) Such redesignation is proposed after consultation with the State(s) in which the Indian Reservation is located or which border the Indian Reservation and, for those lands held in trust, with the approval of the Secretary of the Interior.

(vi) The Administrator shall approve, within 90 days, any redesignation proposed pursuant to this subparagraph as follows:

(a) Any redesignation proposed pursuant to subdivisions (ii) and (iii) of this subparagraph shall be approved unless the Administrator determines (1) that the requirements of subdivisions (ii) and (iii) of this subparagraph have not been complied with, (2) that the State has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph, or (3) that the State has not requested and received delegation of responsibility for carrying out the new source review requirements of paragraphs (d) and (e) of this section.

(b) Any redesignation proposed pursuant to subdivision (iv) of this subparagraph shall be approved unless he determines (1) that the requirements of subdivision (iv) of this subparagraph have not been complied with, or (2) that the Federal Land Manager has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph.

(c) Any redesignation submitted pursuant to subdivision (v) of this subparagraph shall be approved unless he determines (1) that the requirements of subdivision (v) of this subparagraph have not been complied with, or (2) that the Indian Governing Body has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph.

(d) Any redesignation proposed pursuant to this paragraph shall be approved only after the Administrator has solicited written comments from affected Federal agencies and Indian Governing Bodies and from the public on the proposal.

(e) Any proposed redesignation protested to the proposing State, Indian Governing Body, or Federal Land Manager and to the Administrator by another State or Indian Governing Body because of the effects upon such protesting State or Indian Reservation shall be approved by the Administrator only if he determines that in his judgment the redesignation appropriately balances considerations of growth anticipated in the area proposed to be redesignated; the social, environmental and economic effects of such redesignation upon the area being redesignated and upon other areas and States; and any impacts upon regional or national interests.

(f) The requirements of paragraph (c) (3) (vi) (a) (3) that a State request and receive delegation of the new source review requirements of this section as a condition to approval of a proposed redesignation, shall include as a minimum receiving the administrative and technical functions of the new source review. The Administrator will carry out any required enforcement action in cases where the State does not have adequate legal authority to initiate such actions. The Administrator may waive the requirements of paragraph (c) (3) (vi) (a) (3) if the State Attorney-General has determined that the State cannot accept delegation of the administrative/technical functions.

(vii) If the Administrator disapproves any proposed area designation under this subparagraph, the State, Federal Land Manager or Indian Governing Body, as appropriate, may resubmit the proposal after correcting the deficiencies noted by the Administrator or reconsidering any area designation determined by the Administrator to be arbitrary and capricious.

(d) Review of new sources

(1) The provisions of this paragraph have been incorporated by reference into the applicable implementation plans for various States, as provided in Subparts B through DDD of this part. Where this paragraph is so incorporated, the requirements of this paragraph apply to any new or modified stationary source of the type identified below which has not commenced construction or modification prior to June 1, 1975 except as specifically provided below. A

source which is modified, but does not increase the amount of sulfur oxides or particulate matter emitted, or is modified to utilize an alternative fuel, or higher sulfur content fuel, shall not be subject to this paragraph.

(i) Fossil-Fuel Steam Electric Plants of more than 1000 million B.T.U. per hour heat input.

(ii) Coal Cleaning Plants.

(iii) Kraft Pulp Mills.

(iv) Portland Cement Plants.

(v) Primary Zinc Smelters.

(vi) Iron and Steel Mills.

(vii) Primary Aluminum Ore Reduction Plants.

(viii) Primary Copper Smelters.

(ix) Municipal Incinerators capable of charging more than 250 tons of refuse per 24 hour day.

(x) Sulfuric Acid Plants.

(xi) Petroleum Refineries.

(xii) Lime Plants.

(xiii) Phosphate Rock Processing Plants.

(xiv) By-Product Coke Oven Batteries.

(xv) Sulfur Recovery Plants.

(xvi) Carbon Black Plants (furnace process).

(xvii) Primary Lead Smelters.

(xviii) Fuel Conversion Plants.

(xix) Ferroalloy production facilities commencing construction after October 5, 1975.

(2) No owner or operator shall commence construction or modification of a source subject to this paragraph unless the Administrator determines that, on the basis of information submitted pursuant to subparagraph (3) of this paragraph:

(i) The effect on air quality concentration of the source or modified source, in conjunction with the effects of growth and reduction in emissions after January 1, 1975, of other sources in the area affected by the proposed source, will not violate the air quality increments applicable in the area where the source will be located nor the air quality increments applicable in any other areas. The analysis of emissions growth and reduction after January 1, 1975, of other sources in the areas affected by the proposed source shall include all new and modified sources granted approval to construct pursuant to this paragraph; reduction in emissions from existing sources which contributed to air quality during all or part of 1974; and general commercial, residential, industrial, and other sources of emissions growth not exempted by paragraph (c) (2) (111) of this section which has occurred since January 1, 1975.

(ii) The new or modified source will meet an emission limit, to be specified by the Administrator as a condition to approval, which represents that level of emission reduction which would be achieved by the application of best available control technology, as defined in 52.01 (f), for particulate matter and sulfur dioxide. If the Administrator determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, he may instead prescribe a design or equipment standard requiring the application of best available control technology. Such standard shall to the degree possible set forth the emission reductions achievable by implementation of such design or equipment, and shall provide for compliance by means which achieve equivalent results.

(iii) With respect to modified sources, the requirements of subparagraph (2) (ii) of this paragraph shall be applicable only to the facility or facilities from which emissions are increased.

(3) In making the determinations required by paragraph (d) (2) of this section, the Administrator shall, as a minimum, require the owner or operator of the source subject to this paragraph to submit: site information, plans, description, specifications, and drawings showing the design of the source; information necessary to determine the impact that the construction or modification will have on sulfur dioxide and particulate matter air quality levels; and any other information necessary to determine that best available control technology will be applied. Upon request of the Administrator, the owner or operator of the source shall provide information on the nature and extent of general commercial, residential, industrial, and other growth which has occurred in the area affected by the source's emissions (such area to be specified by the

Administrator) since January 1, 1975.

(4) (i) Where a new or modified source is located on Federal Lands, such source shall be subject to the procedures set forth in paragraphs (d) and (e) of this section. Such procedures shall be in addition to applicable procedures conducted by the Federal Land Manager for administration and protection of the affected Federal Lands. Where feasible, the Administrator will coordinate his review and hearings with the Federal Land Manager to avoid duplicate administrative procedures.

(ii) New or modified sources which are located on Indian Reservations shall be subject to procedures set forth in paragraphs (d) and (e) of this section. Such procedures shall be administered by the Administrator in cooperation with the Secretary of the Interior with respect to lands over which the State has not assumed jurisdiction under other laws.

(iii) Whenever any new or modified source is subject to action by a Federal Agency which might necessitate preparation of an environmental impact statement pursuant to the National Environmental Policy Act (42 U.S.C. 4321), review by the Administrator conducted pursuant to this paragraph shall be coordinated with the broad environmental reviews under that Act, to the maximum extent feasible and reasonable.

(5) Where an owner or operator has applied for permission to construct or modify pursuant to this paragraph and the proposed source would be located in an area which has been proposed for redesignation to a more stringent class (or the State, Indian Governing Body, or Federal Land Manager has announced such consideration), approval shall not be granted until the Administrator has acted on the proposed redesignation.

(e) Procedures for public participation

(1) (i) Within 20 days after receipt of an application to construct, or any addition to such application, the Administrator shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph (e) (1) (ii) of this section shall be the date on which all required information is received by the Administrator.

(ii) Within 30 days after receipt of a complete application, the Administrator shall:

(a) Make a preliminary determination whether the source should be approved, approved with conditions, or disapproved.

(b) Make available in at least one location in each region in which the proposed source would be constructed, a copy of all materials submitted by the owner or operator, a copy of the Administrator's preliminary determination and a copy or summary of other materials, if any, considered by the Administrator in making his preliminary determination; and

(c) Notify the public, by prominent advertisement in newspaper of general circulation in each region in which the proposed source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the Administrator's preliminary determination on the approvability of the source.

(iii) A copy of the notice required pursuant to this subparagraph shall be sent to the applicant and to officials and agencies having cognizance over the locations where the source will be situated as follows: State and local air pollution control agencies, the chief executive of the city and county; any comprehensive regional land use planning agency; and any State, Federal Land Manager or Indian Governing Body whose lands will be significantly affected by the source's emissions.

(iv) Public comments submitted in writing within 30 days after the date such information is made available shall be considered by the Administrator in making his final decision on the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Administrator shall consider the applicant's response in making his final decision. All comments shall be made available for public inspection in at least one location in the region in which the source would be located.

(v) The Administrator shall take final action on an application within 30 days after the close of the public comment period. The Administrator shall notify the applicant in writing of his approval, conditional approval, or denial of the application, and shall set forth his reasons for conditional approval or denial. Such notification shall be made available for public inspection in at least one location in the region in which the source would be located.

(vi) The Administrator may extend each of the time periods specified in paragraph (e) (1) (ii), (iv), or (v) of this section by no more than 30 days or such other period as agreed to by the applicant and the Administrator.

(2) Any owner or operator who constructs, modifies, or operates a stationary source not in accordance with the application, as approved and conditioned by the Administrator, or any owner or operator of a stationary source subject to this paragraph who commences construction or modification after June 1, 1975, without applying for and receiving approval hereunder, shall be subject to enforcement action under section 113 of the Act.

(3) Approval to construct or modify shall become invalid if construction or expansion is not commenced within 18 months after receipt of such approval or if construction is discontinued for a period of 18 months or more. The Administrator may extend such time period upon a satisfactory showing that an extension is justified.

(4) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with the control strategy and all local, State, and Federal regulations which are part of the applicable State Implementation Plan.

(f) Delegation of authority

(1) The Administrator shall have the authority to delegate responsibility for implementing the procedures for conducting source review pursuant to paragraphs (d) and (e), in accordance with subparagraphs (2), (3), and (4) of this paragraph.

(2) Where the Administrator delegates the responsibility for implementing the procedures for conducting source review pursuant to this section to any Agency, other than a regional office of the Environmental Protection Agency, the following provisions shall apply:

(i) Where the agency designated is not an air pollution control agency, such agency shall consult with the appropriate State and local air pollution control agency prior to making any determination required by paragraph (d) of this section. Similarly, where the agency designated does not have continuing responsibilities for managing land use, such agency shall consult with the appropriate State and local agency which is primarily responsible for managing land use prior to making any determination required by paragraph (d) of this section.

(ii) A copy of the notice pursuant to paragraph (e) (1) (ii) (c) of this section shall be sent to the Administrator through the appropriate regional office.

(3) In accordance with Executive Order 11752, the Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be delegated, other than to a regional office of the Environmental Protection Agency, for new or modified sources which are owned or operated by the Federal government or for new or modified sources located on Federal lands; except that, with respect to the latter category, where new or modified sources are constructed or operated on Federal lands pursuant to leasing or other Federal agreements, the Federal land Manager may at his discretion, to the extent permissible under applicable statutes and regulations, require the lessee or permittee to be subject to a designated State or local agency's procedures developed pursuant to paragraphs (d) and (e) of this section.

(4) The Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be redelegated, other than to a regional office of the Environmental Protection Agency, for new or modified sources which are located on Indian reservations except where the State has assumed jurisdiction over such land under other laws, in which case the Administrator may delegate his authority to the States in accordance with subparagraphs (2), (3), and (4) of this paragraph.

(39 FR 42514, Dec. 5, 1974; 40 FR 2802, Jan. 16, 1975, as amended at 40 FR 24535, June 9, 1975; 40 FR 25005, June 12, 2975; 40 FR 42012, Sept. 10, 1975)